

Olive Academies

Exclusions Policy

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This is an OA central template, which all academies should check to ensure it reflects local practice and context. The term 'headteacher' covers the lead within the academy be they headteacher, head of academy, school or executive headteacher. Please note that in September 2021, the DfE changed the term fixed term exclusion to suspension – this change has been reflected in this policy but there is likely to be a transition to full use of this term during the academic year.	

1. Aims

As a specialist alternative provision trust, we aspire to have zero exclusions but for the safety of all students and staff, we must reserve the right, as set out in the national guidance ([Exclusion from maintained schools, Academies, and pupil referral units in England](#)) – to exclude students on occasions. Our aim is to ensure that every alternative is considered before the decision to exclude either on a fixed term or permanent basis is made.

A suspension (also known as a fixed term exclusion) is a sanction only used following serious incidents or when all other interventions have been exhausted. Careful consideration is given when

discussing a potential suspension. The restorative approach runs alongside any suspensions and at Olive Academies, the family will be included in this process.

At Olive Academies we aim to ensure that:

- the exclusions process is applied fairly and consistently
- the exclusions process is understood by trustees, Academy Advisory Board (AAB) members, staff, parents and pupils
- pupils in our academy are safe and happy
- pupils do not become NEET (not in education, employment or training)

Note: Please refer to DfE guidance on temporary changes to exclusions during COVID-19 - <https://www.gov.uk/government/publications/school-exclusion/changes-to-the-school-exclusion-process-during-the-coronavirus-outbreak> .

2. Legislation and statutory guidance

This policy is based on statutory guidance from the Department for Education: [Exclusion from maintained schools, academies and pupil referral units \(PRUs\) in England](#).

This policy complies with our funding agreement and articles of association.

3. The Equality Act (2010) and Special Educational Need

We have a statutory duty not to discriminate against pupils on the basis of protected characteristics. We will give particular consideration to pupils who are more vulnerable, based on national figures, to be excluded, and those groups who, in our academy, are vulnerable to exclusion.

For disabled children, we will make reasonable adjustments to policies and practices and the provision of auxiliary aids as appropriate. We will not create policies or use practices that discriminate against pupils with protected characteristics by unfairly increasing their risk of exclusion. We will comply with our statutory duties in relation to SEN when administering the exclusion process. This includes having regard to the SEND Code of Practice.

Where we have concerns about the behaviour, or risk of exclusion, of a child with additional needs, a pupil with an EHC plan or a looked after child, we will, in partnership with others (including the local authority as necessary), consider what additional support or alternative placement may be required. This will involve assessing the suitability of provision for a pupil's SEN. Where a pupil has an EHC plan, we will evaluate whether there is a need to request an early annual review or interim/emergency review.

4. The decision to exclude

Only the headteacher, or acting headteacher, can exclude a pupil from our academy. A permanent or fixed-term exclusion will be taken as a last resort. This decision will be taken in consultation with the OA Director of Academies and the Senior Leadership Team in the academy.

We are committed to following all statutory exclusions procedures to ensure that every child receives an education in a safe and caring environment.

A decision to exclude a pupil will be taken only:

- in response to serious or persistent breaches of the academy's behaviour policy, **and**
- if allowing the pupil to remain in the academy would seriously harm the education or welfare of others

Before deciding whether to exclude a pupil, either permanently or for a fixed period, the headteacher will:

- consider all the relevant facts and evidence, including whether the incident(s) leading to the exclusion were provoked
- allow the pupil to give their version of events
- consider if the pupil has special educational needs (SEN)

Pupils' behaviour outside of school can be considered as grounds for exclusion.

5. Definition

For the purposes of exclusions, school day is defined as any day on which there is a school session. Therefore, INSET or staff training days do not count as a school day.

6. Roles and responsibilities

6.1 The headteacher

Informing parents

The headteacher will immediately provide the following information, in writing, to the parents of an excluded pupil:

- the reason(s) for the exclusion
- the length of a fixed-term exclusion or, for a permanent exclusion, the fact that it is permanent
- information about parents' right to make representations about the exclusion to the governing board and how the pupil may be involved in this
- how any representations should be made
- where there is a legal requirement for the governing board to meet to consider the reinstatement of a pupil, and that parents have a right to attend a meeting, be represented at a meeting (at their own expense) and to bring a friend

The headteacher will also notify parents by the end of the afternoon session on the day their child is excluded that for the first 5 school days of an exclusion, or until the start date of any alternative provision where this is earlier, parents are legally required to ensure that their child is not present in a public place during school hours without a good reason. Parents may be given a fixed penalty notice or prosecuted if they fail to do this.

If alternative provision is being arranged, the following information will be included when notifying parents of an exclusion:

- the start date for any provision of full-time education that has been arranged
- the start and finish times of any such provision, including the times for morning and afternoon sessions, where relevant
- the address at which the provision will take place

- any information required by the pupil to identify the person they should report to on the first day

Where this information on alternative provision is not reasonably ascertainable by the end of the afternoon session, it may be provided in a subsequent notice, but it will be provided no later than 48 hours before the provision is due to start. The only exception to this is where alternative provision is to be provided before the sixth day of an exclusion, in which case the information can be provided with less than 48 hours' notice with parents' consent.

Informing Academy Advisory Board (AAB) and local authority

The headteacher will immediately notify the chair of the AAB and safeguarding link trustee, and the local authority (LA) of:

- any permanent exclusion, including when a fixed-period exclusion is followed by a decision to permanently exclude a pupil
- exclusions which would result in the pupil being excluded for more than 5 school days (or more than 10 lunchtimes) in a term
- exclusions which would result in the pupil missing a public examination

For a permanent exclusion, if the pupil lives outside the LA in which our academy is located, the headteacher will also immediately inform the pupil's 'home authority' of the exclusion and the reason(s) for it without delay.

For all other exclusions, the headteacher will notify the AAB and LA once a term.

6.2 The board of trustees and AAB

As outlined in the OA scheme of delegation, responsibilities regarding exclusions are delegated by the board of trustees to the AAB who will establish a committee of at least three members.

The board of trustees (via the AAB exclusions committee) has a duty to consider the reinstatement of an excluded pupil (see section 6).

Within 14 days of receipt of a request, the board of trustees will provide the secretary of state and local authority with information about any exclusions in the last 12 months.

For a fixed-period exclusion of more than 5 school days, the board of trustees will ensure the arrangement of suitable full-time education for the pupil. This provision will begin no later than the sixth day of the exclusion.

Provision does not have to be arranged for pupils in the final year of compulsory education who do not have any further public examinations to sit.

6.3 The Local Authority (LA)

For permanent exclusions, the LA is responsible for arranging suitable full-time education to begin no later than the sixth day of the exclusion.

7. Considering the reinstatement of a pupil

The AAB exclusions committee on behalf of the board of trustees will consider the reinstatement of an excluded pupil within 15 school days of receiving the notice of the exclusion if:

- the exclusion is permanent
- it is a fixed-term exclusion which would bring the pupil's total number of school days of exclusion to more than 15 in a term
- it would result in a pupil missing a public examination or national curriculum test

If requested to do so by parents, the AAB exclusions committee will consider the reinstatement of an excluded pupil within 50 school days of receiving notice of the exclusion if the pupil would be excluded from school for more than 5 school days, but less than 15, in a single term.

Where an exclusion would result in a pupil missing a public examination, the AAB exclusions committee will consider the reinstatement of the pupil before the date of the examination. If this is not practicable, the AAB will consider the exclusion and decide whether or not to reinstate the pupil.

The AAB can either:

- decline to reinstate the pupil, or
- direct the reinstatement of the pupil immediately, or on a particular date

In reaching a decision, the AAB exclusions committee will consider whether the exclusion was lawful, reasonable and procedurally fair and whether the headteacher followed their legal duties. They will decide whether or not a fact is true 'on the balance of probabilities', which differs from the criminal standard of 'beyond reasonable doubt', as well as any evidence that was presented in relation to the decision to exclude.

Minutes will be taken of the meeting, and a record of evidence considered kept. The outcome will also be recorded on the pupil's educational record.

The AAB exclusions committee will notify, in writing, the headteacher, parents and the LA of its decision, along with reasons for its decision, without delay.

Where an exclusion is permanent, the AAB exclusions committee's decision will also include the following:

- the fact that it is permanent
- notice of parents' right to ask for the decision to be reviewed by an independent review panel, and:
 - the date by which an application for an independent review must be made
 - the name and address to whom an application for a review should be submitted
 - that any application should set out the grounds on which it is being made and that, where appropriate, reference to how the pupil's SEN are considered to be relevant to the exclusion
 - that, regardless of whether the excluded pupil has recognised SEN, parents have a right to require Olive Academies to appoint an SEN expert to attend the review
 - details of the role of the SEN expert and that there would be no cost to parents for this appointment
 - that parents must make clear if they wish for an SEN expert to be appointed in any application for a review
 - that parents may, at their own expense, appoint someone to make written and/or oral representations to the panel, and parents may also bring a friend to the review

- that if parents believe that the exclusion has occurred as a result of discrimination, they may make a claim under the Equality Act 2010 to the first-tier tribunal (special educational needs and disability), in the case of disability discrimination, or the county court, in the case of other forms of discrimination. A claim of discrimination made under these routes should be lodged within 6 months of the date on which the discrimination is alleged to have taken place

8. An independent review

If parents apply for an independent review, Olive Academies trust will arrange for an independent panel to review the decision of the AAB exclusions committee not to reinstate a permanently excluded pupil.

Applications for an independent review must be made within 15 school days of notice being given to the parents by the AAB exclusions committee of its decision to not reinstate a pupil.

A panel of 3 or 5 members will be constituted with representatives from each of the categories below. Where a 5-member panel is constituted, 2 members will come from the school governor category and 2 members will come from the headteacher category.

- a lay member to chair the panel who has not worked in any school in a paid capacity, disregarding any experience as a school governor or volunteer
- school governors who have served as a governor for at least 12 consecutive months in the last 5 years, provided they have not been teachers or headteachers during this time
- headteachers or individuals who have been a headteacher within the last 5 years

A person may not serve as a member of a review panel if they:

- are a member or director of Olive Academies or the AAB of the excluding academy
- are the headteacher of the excluding academy, or have held this position in the last 5 years
- are an employee of Olive Academies
- have, or at any time have had, any connection with Olive Academies, the academy, parents or pupil, or the incident leading to the exclusion, which might reasonably be taken to raise doubts about their impartiality
- have not had the required training within the last 2 years (see appendix 1 for what training must cover)

A clerk will be appointed to the panel.

The independent panel will decide one of the following:

- uphold the exclusions committee's decision
- Recommend that the exclusion committee reconsiders reinstatement
- Quash the exclusion committee's decision and direct that they reconsider reinstatement (only when the decision is judged to be flawed)

The panel's decision can be decided by a majority vote. In the case of a tied decision, the chair has the casting vote.

9. School registers

A pupil's name will be removed from the school admissions register if:

- 15 school days have passed since the parents were notified of the exclusion panel's decision to not reinstate the pupil and no application has been made for an independent review panel, or
- the parents have stated in writing that they will not be applying for an independent review panel

Where an application for an independent review has been made, the headteacher will wait until that review has concluded before removing a pupil's name from the register.

Where alternative provision has been made for an excluded pupil and they attend it, code B (education off-site) or code D (dual registration) will be used on the attendance register.

Where excluded pupils are not attending alternative provision, code E (absent) will be used.

10. Returning from a fixed-term exclusion

Following a fixed-term exclusion, a re-integration meeting will be held involving the pupil, parents, a member of senior staff and other staff, where appropriate. A phased integration plan which best supports the pupil will be agreed with the parent/carers including planned support and interventions. This plan is reviewed regularly with the pupil and parents/carers. The plan is recorded and updated on Arbor.

11. Monitoring arrangements

Our academy headteacher monitors the number of exclusions every term and reports back to the Academy Advisory Board (AAB). Trustees receive regular information about trends and policy changes. The headteacher also liaises with the local authority to ensure suitable full-time education for excluded pupils.

12. Links with other policies

This exclusions policy is linked to our:

- Behaviour policy
- Phased integration and fixed-term exclusion procedures
- SEND policy and information report

Appendix 1: Independent review panel training

Olive Academies must ensure that all members of an independent review panel and clerks have received training within the 2 years prior to the date of the review.

Training must have covered:

- the requirements of the primary legislation, regulations and statutory guidance governing exclusions, which would include an understanding of how the principles applicable in an application for judicial review relate to the panel's decision making
- the need for the panel to observe procedural fairness and the rules of natural justice
- the role of the chair and the clerk of a review panel
- the duties of headteachers, governing boards and the panel under the Equality Act 2010
- the effect of section 6 of the Human Rights Act 1998 (acts of public authorities unlawful if not compatible with certain human rights) and the need to act in a manner compatible with human rights protected by that Act