



Olive Academies

## Olive Academies

### Suspension and Permanent Exclusion Policy

<b>Document control table</b>	
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Updates/revisions included:	Section 5 – the role of the headteacher in deciding whether to suspend or exclude has been rewritten more closely aligned with the guidance
The term 'headteacher' covers the lead within the academy be they headteacher, head of academy, or executive headteacher.	

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### 1. Aims

As a specialist alternative provision trust, we aspire to have zero suspensions and permanent exclusions but for the safety of all students and staff, we must reserve the right, as set out in the national guidance on suspensions and permanent exclusions, to suspend or exclude students on occasions. Our aim is to ensure that every alternative is considered for pupils before the decision to suspend on a fixed term basis or to permanently exclude is made.

The board of trustees will review data to consider the level of pupil moves, suspensions and the characteristics of pupils who have been permanently excluded to ensure the sanction is only used, when necessary, as a last resort.

A suspension (formerly 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 suspension and permanent exclusion process is applied fairly and consistently
- the suspension and permanent exclusion 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)
- all suspensions and permanent exclusions are carried out lawfully

## 2. Legislation and statutory guidance

This policy is based on statutory guidance from the Department for Education: [School suspensions and permanent exclusion](#)

It is based on the following legislation, which outlines schools' powers to exclude pupils:

- Section 51a of the Education Act 2002, as amended by the Education Act 2011
- The School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012

In addition, the policy is based on:

- Part 7, chapter 2 of the [Education and Inspections Act 2006](#), which sets out parental responsibility for excluded pupils
- Section 579 of the [Education Act 1996](#), which defines 'school day'
- The [Education \(Provision of Full-Time Education for Excluded Pupils\) \(England\) Regulations 2007](#), as amended by [The Education \(Provision of Full-Time Education for Excluded Pupils\) \(England\) \(Amendment\) Regulations 2014](#)
- [The Equality Act 2010](#)
- [Children and Families Act 2014](#)

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

## 3. The Equality Act (2010) and Special Educational Needs

We have a statutory duty not to discriminate against pupils based on protected characteristics. We will consider 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 SEND when administering the exclusion process. This includes considering the SEND Code of Practice.

Where we have concerns about the behaviour, or risk of suspension or permanent 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 SEND. 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. Definitions

**Suspension** – when a pupil is removed from the school for a fixed period. This was previously referred to as a 'fixed-term exclusion'.

**Permanent exclusion** – when a pupil is removed from the school permanently and taken off the school roll. This is sometimes referred to as an 'exclusion'.

**Off-site direction** – when a governing board of a maintained school requires a pupil to attend another education setting temporarily, to improve their behaviour.

**Parent** – any person who has parental responsibility and any person who takes care of the child.

**Managed move** – when a pupil is transferred to another school permanently. All parties, including parents and the admission authority for the new school, should consent before a managed move occurs.

For the purposes of exclusions, a 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.

## 5. Roles and responsibilities

### 5.1 The headteacher

#### Deciding whether to suspend or exclude

Only the headteacher, or acting headteacher, can suspend or permanently exclude a pupil from school on disciplinary grounds. The decision can be made with respect to behaviour inside or outside of the academy. The headteacher will only use permanent exclusion as a last resort.

A decision to suspend a pupil will be taken only:

- in accordance with the school's behaviour policy;
- to provide a clear signal of what is unacceptable behaviour; and
- to show a pupil that their current behaviour is putting them at risk of permanent exclusion.

Where suspensions have become a regular occurrence, the headteacher will consider whether suspensions alone are an effective sanction and whether additional strategies need to be put in place to address behaviour issues.

A decision to exclude a pupil will be taken only:

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

Before deciding whether to suspend or exclude a pupil, the headteacher will consider:

- all the relevant facts and evidence on the balance of probabilities, including whether the incident(s) leading to the exclusion were provoked;
- the pupil and allow them to give their version of events;
- whether the pupil has special educational needs (SEN);
- whether the pupil is especially vulnerable (e.g. the pupil has a social worker, or is a child in care);
- whether all alternative solutions have been explored, such as:
  - o suspensions, detentions or other sanctions provided for in the behaviour policy; and
  - o exclusions, off-site direction or managed moves.

The headteacher will consider the views of the pupil, considering their age and understanding, before deciding to suspend or exclude, unless it would not be appropriate to do so.

Pupils who need support to express their views will be allowed to have their views expressed through an advocate, such as a parent/carer or social worker.

The headteacher will not reach their decision until they have heard from the pupil and will inform them of how their views were considered when making the decision.

### **Informing parents**

If a pupil is at risk of suspension or permanent exclusion the headteacher will inform the parents as early as possible, to work together to consider what factors may be affecting the pupil's behaviour, and what further support can be put in place to improve the behaviour.

If the headteacher decides to suspend or permanently exclude a pupil, the parents will be informed about the reason(s) and in the case of the suspension the length of it, without delay.

The parents will also be provided with the following information in writing, without delay:

- the reason(s) for the suspension or permanent exclusion
- the length of a suspension or, for a permanent exclusion, the fact that it is permanent
- information about parents' right to make representations about the suspension or permanent 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 suspended or permanently 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. This will include on which days this duty applies.
- 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 if possible:

- 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

If the headteacher does not have the all the information about the alternative provision arrangements by the end of the afternoon session on the first day of the suspension or permanent

exclusion, they can provide the information later, without delay and 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 a suspension or permanent exclusion, in which case the school reserves the right to provide the information with less than 48 hours' notice, with parents' consent.

### **Informing the Academy Advisory Board (AAB) and safeguarding trustee**

The headteacher will, without delay, notify the chair of the AAB and safeguarding lead trustee:

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

This will be done by sharing the suspensions tracking spreadsheet maintained by the headteacher.

The headteacher will also notify the AAB once per term of any other suspensions of which they have not previously been notified, and the number of suspensions and permanent exclusions which have been cancelled, including the circumstances and reasons for the cancellation.

### **Informing the local authority (LA)**

The headteacher will notify the LA of all suspensions and permanent exclusions without delay, regardless of the length of a suspension. This will be done by sending a copy of the letter sent to parents to the Inclusions lead or equivalent in the LA.

The notification will include:

- The reason(s) for the suspension or permanent exclusion
- The length of a suspension or, for a permanent exclusion, the fact that it is permanent

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

### **Informing the pupil's social worker and/or virtual school head**

If a:

- **Pupil with a social worker** is at risk of suspension or permanent exclusion, the headteacher will inform **the social worker** as early as possible
- **Pupil who is a looked-after child (LAC)** is at risk of suspension or exclusion, the headteacher will inform **the virtual school head** as early as possible

This will allow everyone to work together to consider what factors may be affecting the pupil's behaviour, and what further support can be put in place to improve the behaviour.

If the headteacher decides to suspend or permanently exclude a pupil with a social worker / a pupil who is looked after, they will inform the pupil's social worker / the virtual school head, as appropriate, without delay, that:

- They have decided to suspend or permanently exclude the pupil
- The reason(s) for the decision
- The length of the suspension or, for a permanent exclusion, the fact that it is permanent
- The suspension or permanent exclusion affects the pupil's ability to sit a National Curriculum test or public exam (where relevant)

The social worker / virtual school head will be invited to any meeting of the governing board about the suspension or permanent exclusion. This is so they can provide advice on how the pupil's background and/or circumstances may have influenced the circumstances of their suspension or permanent exclusion. The social worker should also help ensure safeguarding needs and risks and the pupil's welfare are considered.

The headteacher will involve pupils in the process so that any suspended or permanently excluded pupil is enabled and encouraged to participate at all stages of the suspension or permanent exclusion process, considering their age and ability to understand.

### **Cancelling suspensions and permanent exclusions**

The headteacher may cancel a suspension or permanent exclusion that has already begun, but this will only be done where it has not yet been reviewed by the governing board. Where there is a cancellation:

- The parents, AAB, safeguarding lead trustee and LA will be notified without delay and will also provide a reason for the cancellation
- Where relevant, any social worker and virtual school head will be notified without delay
- Parents will be offered the opportunity to meet with the headteacher to discuss the cancellation
- The duty to consider reinstatement ceases, and there is no requirement to hold a meeting to consider reinstatement
- As referred to above, the headteacher will report to the AAB once per term on the number of cancellations
- The pupil will be allowed back in school

### **Providing education during the first 5 days of a suspension or permanent exclusion**

During the first 5 days of a suspension, if the pupil is not attending alternative (AP) provision, the headteacher will take steps to ensure that achievable and accessible work is set and marked for the pupil. Online pathways such as Google Classroom or Oak Academy may be used for this. If the pupil has a special educational need or disability, the headteacher will make sure that reasonable adjustments are made to the provision where necessary.

If the pupil is a looked-after child (LAC) or if they have a social worker, the school will work with the LA to arrange alternative provision from the first day following the suspension or permanent exclusion.

Where this is not possible, the school will take reasonable steps to set and mark work for the pupil, including the use of online pathways.

## **5.2 The Board of Trustees and AAB**

As outlined in the OA scheme of delegation, responsibilities regarding suspensions and permanent exclusions are delegated by the board of trustees to the AAB who will establish an Academy Advisory Board panel of at least three members.

The Board of Trustees (via an Academy Advisory Board panel) has a duty to consider parents' representations about a suspension or permanent exclusion. It has a duty to consider the reinstatement of suspended or permanently excluded pupil in certain circumstances.

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 suspensions or permanent exclusions in the last 12 months.

For a suspension of more than 5 school days, the headteacher on behalf of 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 suspension.

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.

### **Monitoring and analysis of suspension and permanent exclusion data**

Trustees and the AAB for each academy, and trust and school leaders will challenge and evaluate the data on the school's use of suspension, permanent exclusion, and phased integration plans including the use of other alternative provision.

To do this, they may consider:

- How effectively and consistently the school's behaviour policy is being implemented
- The school register and absence codes
- Instances where pupils receive repeat suspensions
- Interventions in place to support pupils at risk of suspension or permanent exclusion
- The characteristics of suspended and permanently excluded pupils, and why this is taking place
- Whether the placements of pupils placed on PIPs including other alternative provision are reviewed at sufficient intervals to assure that the education is achieving its objectives and that pupils are benefiting from it
- The cost implications of PIPs

The trust will use the results of this analysis to make sure it is meeting its duties under the Equality Act 2010. If any patterns or disparities between groups of pupils are identified by this analysis, the school will review its policies to tackle it.

Olive Academies will work with its academies to consider this data, and to analyse whether there are patterns across the trust, recognising that numbers in any one academy may be too low to allow for meaningful statistical analysis.



### 5.3 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.

## 6. Considering the reinstatement of a pupil

Where the pupil has been suspended, and the suspension does not bring the pupil's total number of days of suspension to more than 5 in a term, the Academy Advisory Board panel must consider any representations made by parents. However, it is not required to arrange a meeting with parents and it cannot direct the headteacher to reinstate the pupil.

Where the pupil has been suspended for more than 5 days, but less than 16 days, in a single term, and the parents make representations to the board, the Academy Advisory Board panel will consider and decide on the reinstatement of a suspended pupil within 50 school days of receiving notice of the suspension. If the parents do not make representations, the Academy Advisory Board panel is not required to meet, and it cannot direct the headteacher to reinstate the pupil.

Where a suspension or permanent exclusion would result in a pupil missing a public exam or National Curriculum test, the Academy Advisory Board panel will, as far as reasonably practicable, consider and decide on the reinstatement of the pupil before the date of the exam or test. If this is not practicable, the panel may consider the suspension or permanent exclusion and decide whether to reinstate the pupil.

The following parties will be invited to a meeting of the Academy Advisory Board panel and allowed to make representations or share information:

- Parents, or the pupil if they are 18 or over (and, where requested, a representative or friend)
- The pupil, if they are aged 17 or younger and it would be appropriate to their age and understanding (and, where requested, a representative or friend)
- The headteacher
- The pupil's social worker, if they have one
- The virtual school head, if the pupil is looked after

The trust will try to arrange the meeting within the statutory time limits set out above and must try to have it at a time that suits all relevant parties. However, its decision will not be invalid because it was not made within these time limits.

The Academy Advisory Board panel can either:

- Decline to reinstate the pupil, or
- Direct the reinstatement of the pupil immediately, or on a particular date (except in cases where the board cannot do this – see earlier in this section)

In reaching a decision, the panel will consider:

- Whether the decision to suspend or permanently exclude was lawful, reasonable, and procedurally fair
- Whether the headteacher followed their legal duties
- The welfare and safeguarding of the pupil and their peers
- Any evidence that was presented to the panel

They will decide whether a fact is true 'on the balance of probabilities'.

Minutes will be taken of the meeting, and a record kept of the evidence that was considered. The outcome will also be recorded on the pupil's educational record, and copies of relevant papers will be kept with this record.

The Academy Advisory Board panel will notify, in writing, the following stakeholders of its decision, along with reasons for its decision, without delay:

- The parents, or the pupil, if they are 18 or older
- The headteacher
- The pupil's social worker, if they have one
- The virtual school head, if the pupil is a looked-after child
- The local authority
- The pupil's home authority, if it differs from the school's

Where an exclusion is permanent and the Academy Advisory Board panel has decided not to reinstate the pupil, the notification of decision will also include the following:

- The fact that it is a permanent exclusion
- Notice of parents' right to ask for the decision to be reviewed by an independent review panel
- The date by which an application for an independent review must be made (15 school days from the date on which notice in writing of the Academy Advisory Board panel decision is given to parents)
- The name and address to which an application for a review and any written evidence should be submitted
- That any application should set out the grounds on which it is being made and that, where appropriate, it should include reference to how the pupil's special educational needs (SEN) are relevant to the permanent exclusion
- That, regardless of whether the excluded pupil has recognised SEND, parents have a right to require the trust to appoint a SEND expert to advise the review panel
- Details of the role of the SEND expert and that there would be no cost to parents for this appointment
- That parents must make clear if they wish for a SEND 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 permanent exclusion has occurred because of unlawful 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. Also, that any 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.

## 7. An independent review

If parents apply for an independent review, Olive Academies MAT will arrange for an independent panel to review the decision of the Academy Advisory Board panel 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 Academy Advisory Board panel of its decision not to reinstate a pupil.

A panel of 3 or 5 members will be made with representatives from each category 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 Academy Advisory Board panel decision
- Recommend that the Academy Advisory Board panel reconsiders reinstatement
- Quash the Academy Advisory Board panel decision and direct that they reconsider reinstatement (only when the decision is judged to be flawed)

Where a SEND expert is present, the panel must seek and have regard to the SEND expert's view of how SEND may be relevant to the pupil's permanent exclusion.

Where a social worker is present, the panel must have regard to any representation made by the social worker of how the pupil's experiences, needs, safeguarding risks and/or welfare may be relevant to the pupil's permanent exclusion.

Where a virtual school head is present, the panel must have regard to any representation made by the social worker of how any of the child's background, education and safeguarding needs were considered by the headteacher in the lead up to the permanent exclusion or relevant to the pupil's permanent exclusion.

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

Once the panel has reached its decision, the panel will notify all parties in writing without delay.

This notification will include:

- The panel's decision and the reasons for it
- Where relevant, details of any financial readjustment or payment to be made if the Academy Advisory Board panel does not subsequently decide to offer to reinstate the pupil within 10 school days
- Any information that the panel has directed the Academy Advisory Board panel to place on the pupil's educational record

## **8. 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 Academy Advisory Board panel 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 a permanently 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.

### **Making a return to the LA**

Where a pupil's name is to be removed from the school admissions register because of a permanent exclusion, the school will make a return to the LA. The return will include:

- The pupil's full name
- The full name and address of any parent with whom the pupil normally resides
- At least 1 telephone number at which any parent with whom the pupil normally resides can be contacted in an emergency
- The grounds upon which their name is to be deleted from the admissions register (i.e., permanent exclusion)
- Details of the new school the pupil will attend, including the name of that school and the first date when the pupil attended or is due to attend there, if the parents have told the school the pupil is moving to another school
- Details of the pupil's new address, including the new address, the name of the parent(s) the pupil is going to live there with, and the date when the pupil is going to start living there, if the parents have informed the school that the pupil is moving house

This return must be made as soon as the grounds for removal are met and no later than the removal of the pupil's name.

## 9. Returning from a suspension

**Reintegration** - Following a suspension, 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 may be agreed with the parent including planned support and interventions. Part-time timetables will not be used as a tool to manage behaviour and, if used, will be put in place for the minimum time necessary. This plan is reviewed regularly with the pupil and parents. The plan is recorded and updated on Arbor.

### Reintegration meetings

The school will explain the reintegration strategy to the pupil in a reintegration meeting before or on the pupil's return to school. During the meeting the school will communicate to the pupil that they are getting a fresh start and that they are a valued member of the school community.

The pupil, parents, a member of senior staff, and any other relevant staff will be invited to attend the meeting.

The meeting can proceed without the parents if they cannot or do not attend.

The school expects all returning pupils and their parents to attend their reintegration meeting, but pupils who do not attend will not be prevented from returning to the classroom.

## 10. Links with other policies

This suspension and permanent exclusion policy is linked to our:

- Behaviour policy
- Phased integration and suspension 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 before the review date.

Training must have covered:

- the requirements of the primary legislation, regulations and statutory guidance governing suspensions and permanent 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