



Exclusion Policy

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The Eden Academy –Exclusion Policy

Vision: The Eden Academy will create a centre of educational excellence where our young people will achieve exceptional outcomes

Mission: The Eden Academy will be a national leader in special education. Our mission is to draw on the individual strengths of each Academy school to build good practice and ensure that outstanding teaching and learning is at the heart of everything we do. Young people will achieve excellent academic outcomes in a safe and nurturing environment and be empowered to make decisions about their lives and their contribution to society. We will nurture our staff professionally and create positive relationships with our parents and the wider community.

Value statements:

- **Inclusion:** a voice for everyone and everyone is heard
- **Focus:** children and young people at the core of all we do
- **Collaboration:** together we are stronger
- **Quality:** excellence through innovation, creativity and continuous improvement
- **Integrity:** transparency and fairness in all we do

Introduction

The Eden Academy is an education centre for pupils with complex and profound learning difficulties.

We believe that behaviour should be addressed proactively not reactively and that children should be treated as individuals with respect and dignity. We believe that children's behaviour will be much improved when they have a high self-esteem. It is important that children are respected for who they are as well as what they can do,

that they are listened to and taken seriously, praised when appropriate and shown by verbal and appropriate physical contact that they are liked and valued.

Exclusion criteria

Sometimes a pupil's behaviour will lead to a period of exclusion from school. The Eden Academy conforms to the Department of Education Guidance entitled 'Exclusion from maintained schools, academies and pupil referral units in England'. A copy of this document can be downloaded from the Department of Educational website

<https://www.gov.uk/education/pupil-wellbeing-behaviour-and-attendance>

This option would only be instigated when we felt that we could not guarantee the safety of the pupil involved and the safety of other pupils and staff. Our Exclusion Policy should be read in context with the individual school's behaviour policy.

What is an Exclusion?

Exclusion is a disciplinary sanction, and means that a pupil is not allowed on the school premises for the duration of the Exclusion.

A pupil may be excluded for one or more fixed periods (up to a maximum of 45 school days in a single academic year), or permanently.

There are two types of Exclusion:

- Fixed-Term Exclusion
- Permanent Exclusion

Fixed-Term Exclusion

- A set number of days, after which the pupil returns to school.
- The school must inform the parents/carers explaining the reasons for the exclusion and how long it is to last.

- For the first **five** days, the school should provide resources / activities for the pupil.
- If the exclusion is for more than five days, the school (Local Advisory Board) must make arrangements for alternative education for the pupil, as from the **sixth** day.
- During the exclusion, the pupil must not be in a public place during school hours and the parents are responsible for the whereabouts of the pupil.
- On returning to school, there will be a re-integration meeting, in which all those concerned can discuss the best way forward for the pupil.
- Parents may have a right to challenge the exclusion through written representation to the Local Advisory Board. Parents may also request a meeting with the Local Advisory Board. Members of the Local Advisory Board may then decide whether or not to reinstate a pupil and if the Head /Director for School's decision to exclude was justified based on the evidence.

Permanent Exclusion

- For the first five days, the parents are responsible for the pupil's whereabouts and he/she must not be in a public place during school hours.
- For the first five days, the school should set activities and provide resources for the pupil.
- An assessment of the pupil should be undertaken by the Local Authority, so that a long-term re-integration plan for a new placement can be devised.
- The Local Authority must arrange suitable full time education for the pupil to begin no later than the sixth day of the exclusion.
- Where a pupil has a statement of SEN, the Local Authority must ensure that an appropriate full time placement is identified in consultation with the parents, who retain their rights to express a preference for a school that they wish their child to attend, or make representations for a placement in any other school.
- The school's Local Advisory Board will meet to decide whether or not to reinstate a pupil and if the Head/Director for School's decision to exclude was justified based on the evidence.
- Parents and the pupil will have an opportunity to present their point of view, regarding the exclusion. At that meeting the members of the Local Advisory Board will either uphold the exclusion, or reinstate the pupil.

- If the permanent exclusion is upheld by the members of the Local Advisory Board, the parents have the right to appeal to an [Independent Review Panel](#).

Why would a pupil be excluded?

A decision to exclude a pupil permanently should only be used as a last resort and taken:

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

When establishing the facts in relation to an exclusion decision, the Head /Director for Schools must apply the civil standard of proof, i.e. 'on the balance of probabilities' it is more likely than not that a fact is true, rather than the criminal standard of 'beyond reasonable doubt'.

Exclusion of a child who has Special Educational Needs

There are certain factors that should be taken into consideration for children who display disruptive behaviour that is as a result of their Special Educational Need (SEN).

- Schools should engage proactively with parents in supporting the behaviour of pupils with additional needs.
- Early intervention to address underlying causes of disruptive behaviour should include an assessment of whether appropriate provision is in place to support any SEN or disability that a pupil may have.
- The Head should also consider the use of a multi-agency assessment for pupils who demonstrate persistent disruptive behaviour.
- The Head, Director for Schools and Local Advisory Boards must take account of their statutory duties in relation to SEN when administering the exclusion process. This includes having regard to the [SEN Code of Practice](#).

- Where a school has concerns about the behaviour, or risk of exclusion, of a child with additional needs, a pupil with a statement of SEN or looked after child, it should in partnership with others (including the Local Authority as necessary) consider what additional support or alternative placement may be required.

The decision to exclude a pupil must be lawful, reasonable and fair. Schools have a statutory duty under the [Equality Act 2010](#) not to discriminate against pupils on the basis of protected characteristics, such as disability.

What happens following an exclusion?

Whenever a Head excludes a pupil of compulsory age they must, without delay, notify parents of the period of the exclusion and the reasons for it.

In addition the Head must also notify the Local Advisory Board and Local Authority of:

- a permanent exclusion (including where a fixed period exclusion is made permanent);
- exclusions which would result in the pupil being excluded for more than five school days (or more than ten lunchtimes) in a term; and
- exclusions which would result in the pupil missing a public examination or national curriculum test.

For the first **five** 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 reasonable justification, and parents may be given a fixed penalty notice or prosecuted if they fail to do so.

Schools should take reasonable steps to provide activities / resources for pupils during the first five school days of an exclusion.

Alternative provision must be arranged by the school from the **sixth** day.

The Local Advisory Board's duty to consider an exclusion

The Local Advisory Board has a duty to consider parents' representations about an exclusion.

The Local Advisory Board must consider the reinstatement of an excluded pupil within 15 school days of receiving notice of the exclusion if:

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

If a pupil would be excluded from school for more than five school days, but not more than 15, in a single term, and requested to do so by the parents, the Local Advisory Board must consider the reinstatement of an excluded pupil within 50 school days of receiving notice of the exclusion.

In the case of a fixed period exclusion which does not bring the pupil's total number of days of exclusion to more than five in a term, the governing body must consider any representations made by parents, but **it cannot direct reinstatement as it does not have the power to overturn the head of school's decision** and is not required to arrange a meeting with parents. In this case they should consider whether it would be appropriate to place a note of their findings on the pupil's educational record.

When establishing the facts in relation to an exclusion decision the governing body must apply the civil standard of proof; i.e. 'on the balance of probabilities' it is more likely than not that a fact is true rather than the criminal standard of 'beyond reasonable doubt'.

Excluded pupils should be enabled and encouraged to participate at all stages of the exclusion process, taking into account their age and understanding.

In the light of their consideration, the Local Advisory Board may (where applicable):

- uphold an exclusion; or

- direct reinstatement of the pupil immediately or on a particular date.

Where reinstatement is not practical because for example, the pupil has already returned to school following the expiry of a fixed period exclusion or the parents make clear they do not want their child reinstated, the Local Advisory Board must, in any event, consider whether the Head's decision to exclude the child was justified based on the evidence.

In reaching a decision on whether or not to reinstate a pupil, the Local Advisory Board should consider whether the decision to exclude the pupil was lawful, reasonable and procedurally fair, taking account of the Head's legal duties.

In the case of a permanent exclusion the parents have the right to ask for the decision to be reviewed by a panel comprising representatives from the Board of Trustees.

What is a Review Panel?

If applied for by parents within the legal time frame, the Eden Academy Trust will, at their own expense, arrange for an independent review panel hearing to review the decision of a governing body not to reinstate a permanently excluded pupil.

The legal time frame for an application is:

- within 15 school days of notice being given to the parents by the Local Advisory Board of their decision to uphold a permanent exclusion or
- where an application has not been made within this time frame, within 15 school days of the final determination of a claim of discrimination under the Equality Act 2010 in relation to the exclusion.

If requested by parents in their application for an independent review panel, the Academy Trust must appoint an SEN expert to attend the panel and cover the associated costs of this appointment. The SEN expert's role is like that of an expert witness, providing impartial advice to the panel on how special educational needs might be relevant to the exclusion, for example, whether the school acted reasonably in relation to its legal duties when excluding the pupil.

Parents have a right to request the attendance of an SEN expert at a review, regardless of whether the school recognises that their child has SEN.

The role of the panel is to review the governing body's decision **not to reinstate a permanently excluded pupil**. In reviewing the decision the panel must consider the interests and circumstances of the excluded pupil, including the circumstances in which the pupil was excluded, and have regard to the interests of other pupils and people working at the school.

The panel must apply the civil standard of proof, (i.e. 'on the balance of probabilities' it is more likely than not that a fact is true) rather than the criminal standard of 'beyond reasonable doubt'.

Following its review the panel can decide to:

- uphold the exclusion decision;
- recommend that the governing body reconsiders their decision, or
- quash the decision and direct that the governing body considers the exclusion again.

An independent review panel does not have the power to direct a Local Advisory Board to re-instate an excluded pupil. However, where a panel decides that a Local Advisory Board's decision is flawed when considered in the light of the principles applicable on an application for judicial review, it can direct a Local Advisory Board to reconsider its decision.