



L.E.A.D. Academy Trust

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# **Suspension and Permanent Exclusion Policy**

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## Policy Information

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## 1. Aims

L.E.A.D Academy Trust expects this policy to be implemented by all its member academies. It aims to ensure that:

- The suspension and permanent exclusions process is applied fairly and consistently
- The suspensions and permanent exclusions process is understood by governors, staff, parents and pupils
- Pupils in the academy are safe and happy
- Pupils do not become NEET (not in education, employment or training)
- Ensure all suspensions and permanent exclusions are carried out lawfully

### Off-rolling

Our academy is aware that off-rolling is unlawful. Ofsted defines off-rolling as:

“The practice of removing a pupil from the school roll without a formal, permanent exclusion or by encouraging a parent to remove their child from the school roll, when the removal is primarily in the interests of the school rather than in the best interests of the pupil.”

We will not suspend or exclude pupils unlawfully by directing them off site, or not allowing pupils to attend the academy:

- Without following the statutory procedure or formally recording the event, e.g. sending them home to 'cool off'
- Because they have special educational needs and/or a disability (SEND) that the academy feels unable to support
- Due to poor academic performance
- Because they haven't met a specific condition, such as attending a reintegration meeting
- By exerting undue influence on a parent to encourage them to remove their child from the academy

## 2. Legislation and statutory guidance

This policy is based on statutory guidance from the Department for Education:

The following legislation supports the policy, which outline schools' powers to suspend and permanently exclude pupils: [Suspension and permanent exclusion from maintained schools, academies and pupil referral units in England, including pupil movement](#).

- Section 51a of the [Education Act 2002](#), as amended by the [Education Act 2011](#)
- [The School Discipline \(Pupil Exclusions and Reviews\) \(England\) Regulations 2012](#)
- Sections 64-68 of the [School Standards and Framework Act 1998](#)

In addition, the policy is based on:

- Part 7, chapter 2 of the [Education and Inspections Act 2006](#), which looks at 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](#)

This policy complies with the Trust funding agreement and articles of association.

### 3. Definitions

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

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

**Off-site direction** – when an Academy Governing Body requires a pupil to attend another education setting temporarily, to improve their behaviour.

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

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

### 4. The decision to suspend or permanently exclude

Only the Headteacher, or acting Headteacher, can suspend or permanently exclude a pupil from the academy. A permanent exclusion will be taken as a last resort.

A decision to suspend or permanently exclude a pupil will be taken only:

- In response to serious or persistent breaches of the academy 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 suspend or permanently exclude a pupil, the Headteacher will:

- Ensure appropriate investigations have been carried out
- Consider all the relevant facts and evidence, including whether the incident(s) leading to the suspension or permanent exclusion were provoked
- Allow the pupil to give their version of events where practicable
- Consider if the pupil has special educational needs (SEN)
- Consider any ‘contributing factors’ (See point 18 of Statutory Guidance)
- Check that appropriate support had been provided

### 5. Roles and responsibilities

#### The Headteacher

If a pupil is at risk of suspension or exclusion the Headteacher will inform the parents as early as possible, in order 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 exclude a pupil, the parents will be informed of the period of the suspension or exclusion and the reason(s) for it, 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 and how these should be made about the suspension or permanent exclusion to the Academy Governing Body
- How the pupil may be involved in this; and
- Where there is a legal requirement for the Academy Governing Body 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 without delay and by the end of the afternoon session on the first day their child is suspended or permanently excluded, that:

- For the first 5 days of a suspension or exclusion (or until the start date of any alternative provision or the end of the suspension, where this is earlier), the parents are legally required to ensure that their child is not present in a public place during academy hours without a good reason. This will include specifying 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 when notifying parents of a suspension or permanent 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 a suspension or exclusion, in which case the information can be provided with less than 48 hours' notice with parents' consent.

### **Informing the Academy Governing Body and Local Authority**

The Headteacher will immediately notify the Academy Governing Body, the Director of Schools and the local authority (LA) of:

- A permanent exclusion, including when a suspension is followed by a permanent exclusion being issued
- Suspension which would result in the pupil being suspended for more than 5 days (or more than 10 lunchtimes) in a term
- Suspensions which would result in the pupil missing a public examination

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

For all other suspensions, the Headteacher will notify the Academy Governing Body once a term and the Director of Schools at the time of the suspension.

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

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 VSH** as early as possible

This is in order 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 VSH, 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 pupils ability to sit a National Curriculum test or public exam (where relevant)

The social worker / VSH will be invited to any meeting of the Academy Governing Body 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 taken into account.

### **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 Academy Governing Body. Where there is a cancellation:

- The parents, Academy Governing Body and LA will be notified without delay
- Where relevant, any social worker and VSH will notified without delay
- Parents will be offered the opportunity to meet with the Headteacher to discuss the cancellation
- As referred to above, the Headteacher will report to the Academy Governing Body once per term on the number of cancellations
- The pupil will be allowed back in the academy

### **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. Our Class Dojo system will 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 looked after or if they have a social worker, the academy will work with the LA to arrange AP from the first day following the suspension or permanent exclusion. Where this isn't possible, the academy will take reasonable steps to set and mark work for the pupil, including the use of online pathways.

### **The Academy Governing Body (AGB) and Exclusion Panel**

Responsibilities regarding suspensions and permanent exclusions is delegated to a Suspension and Exclusion Panel consisting of at least 3 governors taken from the nominated governors across the L.E.A.D Academies.

The Suspension and Exclusion Panel has a duty to consider the reinstatement of a suspended or permanently excluded pupil (see section 6).

Within 14 days of receipt of a request, the Academy Governing Body will provide the Secretary of State with information about any exclusions in the last 12 months.

### **Monitoring and analysing suspensions and exclusions data**

The Academy Governing Body will challenge and evaluate the data on the academy's use of suspension, exclusion, off-site direction to alternative provision and managed moves.

The Academy Governing Body will consider:

- How effectively and consistently the academy's behaviour policy is being implemented
- The register and absence codes
- Instances where pupils receive repeat suspensions
- Interventions in place to support pupils at risk of suspension or permanent exclusion
- Any variations in the rolling average of permanent exclusions, to understand why this is happening, and to make sure they are only used when necessary
- Timing of moves and permanent exclusions, and whether there are any patterns, including any indications which may highlight where policies or support are not working
- The characteristics of suspended and permanently excluded pupils, and why this is taking place
- Whether the placements of pupils directed off-site into 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 directing pupils off-site

### **Sixth Day Provision**

Where a child receives a cumulative period of suspension of more than 5 days then education must be arranged no later than the sixth day. Every attempt to provide local arrangements should be explored to ensure a pupil receives full time education as soon as is practicable if it is likely that a longer suspension is likely. (For example, during a period of investigation where more information is being gathered).

## The Local Authority

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

For pupils who are LAC or have social workers, the LA and the academy will work together arrange suitable full-time education to begin from the first day of the exclusion.

## 6. Considering the reinstatement of a pupil

The Exclusion Panel will consider the reinstatement of a suspended or permanently excluded pupil within 15 academic days of receiving the notice of the suspension or permanent exclusion if:

- The exclusion is permanent
- It is a suspension which would bring the pupil's total number of days of suspension to more than 15 in a term
- It would result in a pupil missing a public examination

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 Governing Body 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 Governing Body will consider and decide on the reinstatement of a suspended pupil within 50 days of receiving notice of the suspension. If the parents do not make representations, the board 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 National Curriculum test, the Academy Governing Body will, as far as reasonably practicable, consider and decide on the reinstatement of the pupil before the date of the test. If this is not practicable, a sub-committee of the Academy Governing Body may consider the suspension or permanent exclusion and decide whether or not to reinstate the pupil.

The following parties will be invited to a meeting of the Academy Governing Body 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 VSH, if the pupil is looked after

The Academy Governing Body 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 simply on the grounds that it was not made within these time limits.



The Academy Governing Body 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 AGB 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 Academy Governing Body

They will decide whether or not 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 Governing Body 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 VSH, if the pupil is looked after
- The local authority
- The pupil's home authority, if it differs from the academy's

Where an exclusion is permanent and the AGB 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 days from the date on which notice in writing of the Academy Governing Body's 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 considered to be relevant to the permanent exclusion

That, regardless of whether the excluded pupil has recognised SEN, parents have a right to require the academy trust to appoint an SEN expert to advise the review panel

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 permanent exclusion has occurred as a result 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, the academy trust will arrange for an independent panel to review the decision of the Academy Governing Body not to reinstate a permanently excluded pupil.

Applications for an independent review must be made within 15 days of notice being given to the parents by the exclusion panel 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 academies governor's 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 governor or volunteer.
- 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/director of the academy trust, or Academy Governing Body 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 the academy trust, or the Academy Governing Body, of the excluding academy (unless they are employed as a Headteacher at another school).
- Have, or at any time have had, any connection with the academy trust, academy, Academy Governing Body, 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.
- The panel must consider the interests and circumstances of the pupil, including the circumstances in which the pupil was permanently excluded, and have regard to the interests of other pupils and people working at the academy.

Taking into account the pupil's age and understanding, the pupil or their parents will be made aware of their right to attend and participate in the review meeting and the pupil should be enabled to make representations on their own behalf, should they desire to.

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

Following its review, the independent panel will decide to do 1 of the following:

- Uphold the Academy Governing Body's decision
- Recommend that the Academy Governing Body reconsiders reinstatement
- Quash the Academy Governing Body's decision and direct that they reconsider reinstatement (only if it judges that the decision was flawed)

New evidence may be presented, though the academy cannot introduce new reasons for the permanent exclusion or the decision not to reinstate. The panel must disregard any new reasons that are introduced.

In deciding whether the decision was flawed, and therefore whether to quash the decision not to reinstate, the panel must only take account of the evidence that was available to the Academy Governing Body at the time of making its decision. This includes any evidence that the panel considers would, or should, have been available to the Academy Governing Body and that it ought to have considered if it had been acting reasonably.

If evidence is presented that the panel considers it is unreasonable to expect the Academy Governing Body to have been aware of at the time of its decision, the panel can take account of the evidence when deciding whether to recommend that the Academy Governing Body reconsider reinstatement.

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 Governing Body does not subsequently decide to offer to reinstate the pupil within 10 days
- Any information that the panel has directed the Academy Governing Body to place on the pupil's educational record

## 8. Registers

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

- 15 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 Academy Governing Body will wait until that review has concluded before removing a pupil's name from the register.

Where alternative provision has been made for a suspended or 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 suspended or permanently excluded pupils are not attending alternative provision, code E (absent) will be used.

## 9. Returning from a suspension

Following suspension, the academy will put in place a strategy to help the pupil reintegrate successfully into academy life and full-time education.

Where necessary, the academy will work with third-party organisations to identify whether the pupil has any unmet special educational and/or health needs.

The following measures may be implemented, as part of the strategy, to ensure a successful reintegration into academy life:

- Maintaining regular contact during the suspension and welcoming the pupil back to the academy
- Daily contact where welfare checks are necessary
- Regular reviews with the pupil and parents to praise progress being made and raise and address any concerns at an early stage
- Informing the pupil, parents and staff of potential external support

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.

The strategy will be regularly reviewed and adapted where necessary throughout the reintegration process in collaboration with the pupil, parents, and other relevant parties.

### **Reintegration meetings**

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

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

The academy 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. Monitoring arrangements

The academy will collect data on the following:

- Attendance, permanent exclusions and suspensions
- Use of pupil referral units, off-site directions and managed moves
- Anonymous surveys of staff, pupils and other stakeholders on their perceptions and experiences

The data will be analysed every year by Mr Barry Payne, pastoral Assistant Head. Mr Payne will report back to the [Headteacher and SLT and share with governors for QA.

The data will be analysed from a variety of perspectives including:

- At academy level
- By age group
- By time of day/week/term
- By protected characteristic

The academy 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 academy will review its policies in order to tackle it.

L.E.A.D Academy Trust will work with its academies to consider this data, and to analyse whether there are patterns across the trust, recognising that numbers in any 1 academy may be too low to allow for meaningful statistical analysis.

This policy will be reviewed by Cal Hurst every 3 years. At every review, the policy will be shared with Academy Governing Body.

## 11. Links with other policies

This exclusions policy is linked to academy

- Behaviour policy
- SEN policy and information report
- Equality policy