

Suspension Policy

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Introduction

This policy is designed to briefly outline United Learning's and schools' responsibility and approach to suspensions in line with the statutory framework as defined in the 'Suspension from maintained schools, Academies and pupil referral units in England' (updated September 2017).

United Learning believes that suspension is recognised as an appropriate sanction, however permanent exclusion should only be used as a last resort when a range of other strategies have been tried and exhausted. Most suspensions are the result of persistent breaches of the school's discipline policy. During suspensions the Principal or nominated senior member of staff should remain in contact with the pupil to monitor and ensure the safety and welfare of the pupil. A permanent exclusion for a serious breach (e.g. a one-off or first offence) should only happen in the most serious of circumstances and that suspensions should only be instigated when all other routes have been exhausted or when behaviour is in direct conflict of the individual school's behaviour policy.

Suspensions should only ever be issued by the Principal. All permanent exclusions should be confirmed with the relevant Education Director before issuing.

In this policy, reference to 'suspension' includes both fixed term and permanent suspensions. Where the policy is referring to a specific type (i.e. fixed term or permanent) of suspension, the wording will make this clear.

Principals, Local Governing Bodies, United Learning, independent review panel members and clerks, and SEN experts must by law have regard to this guidance when deciding:

- whether to exclude a pupil;
- whether to uphold an suspension;
- whether to direct reinstatement;
- whether to recommend or direct that the governing body considers the suspension again.

All United Learning schools must have policies, procedures and staff training in place that will promote good behaviour. Behaviour policies must be widely publicised so that pupils, parents and all school staff are aware of the standards of behaviour expected and the range of sanctions.

This policy provides an overview of the suspension process. The school will adhere to current legislation, including the Equality Act 2010. The school is obliged to have regard to the DfE guidance on exclusions. We ensure that our policies and practices do not discriminate against pupils by **unfairly increasing their risk of suspension**. Provisions within the Equality Act allow schools to take positive action to deal with particular disadvantages, needs, or low participation affecting one group, where this can be shown to be a proportionate way of dealing with such issues.

The Principal and governing body comply with statutory duties in relation to SEN when administering the suspension process. This includes having regard to the SEND Code of Practice when making a decision.

The suspension policy relates to behaviour not only in school but also to behaviour out of school: e.g. travelling to and from school; on school trips; work experience placement etc.



Suspension from school

There are two types of official suspension:

1. Fixed Term Suspension

This is a suspension for a **fixed number of days**. The pupil must remain at home up to the first 5 days (during which time the school should take reasonable steps to set and mark work for the pupil). For a fixed term suspension of more than 5 days, full time education provision commences from the 6th day and must be organised by the excluding school. A pupil may not be excluded for more than 45 days in a school year. A pupil is entitled to return to school once the period of suspension has ended.

A pupil may be excluded during **lunchtimes** for a **fixed number of days**. Each lunchtime suspension is equivalent to half a day's fixed term suspension. Arrangements will be made to provide a lunch if the pupil is entitled to free school meals.

Please note we will always look to make 'reasonable adjustments' and take into account a student's SEN need or disability when making the decision to exclude (See Reasonable Adjustment Policy).

Repeated use of fixed-term suspension for children with an EHCP and potentially those on SEN Support (especially those undergoing statutory assessment and likely to get an EHCP) could indicate the support in place is not enough. We ensure the SENCO is involved as part of the I&I process if this is the case. This may involve advice from colleagues / specialists such as an educational psychologist, speech and language therapist, literacy specialist etc.

2. Permanent Suspension

This is where the Principal's intention is that the pupil should not be allowed to return to the school. The decision should only be taken if:

- (a) the pupil has committed a serious breach or persistent breaches of the school's behaviour policy; and
- (b) allowing him/her to remain in the Academy seriously harms the learning or welfare of the pupil or others in the school;

In most cases, this will be after a wide range of alternative strategies have been tried without success. However, there will be exceptional circumstances where, in the Principal's judgement, it might be appropriate to permanently exclude a child for a single serious breach (one-off or first offence). Examples of misconduct that might be considered as a serious breach are set out in Appendix 1.

3. Unofficial Suspensions

Formal suspension is the only legal method of removal if a pupil is sent home for disciplinary reasons (including lunch times). ***"Informal or unofficial suspensions are unlawful"*** regardless of whether they are done with the agreement of parents or carers.

Stages of Suspensions

Permanent suspensions

The permanent suspension process falls into **three stages**:

1. Decision by the Principal to suspend
2. Consideration of the Principal's decision by the Local Governing Body (LGB), usually delegated to a Behaviour Committee
3. [In the case of a permanent exclusion, and only if requested by parents], consideration of the Principal's decision by an Independent Review Panel

The initial decision on whether to suspend is for a Principal to take. As part of considering each permanent exclusion, the **Principal must consult with their Education Director at United Learning** (or delegated executive) **before** the decision is reached and the case presented to the Behaviour Committee.

Fixed Term or Permanent

If enough evidence is available to warrant a permanent exclusion immediately, that sanction should be applied. However great care should be taken in issuing a permanent exclusion immediately and United Learning's procedure must also be followed as specified above.

In some cases, investigation may not be immediately possible if, for example, the incident is complex and a number of witness statements are required.

In such a case, the Principal may issue fixed term suspension for a short period (a maximum of 5 school days is advised):

- to allow investigation to take place;
- to give opportunity for a reasoned decision.

In those exceptional cases, usually where significant further evidence emerges from further investigation, a further sanction may be appropriate, which must be issued to begin immediately after the first fixed term suspension ends (i.e. the student must not return to school between the sanctions). This further sanction may be either further fixed term suspension or a permanent exclusion. Conversely, the Principal may choose to withdraw a suspension in the light of new evidence.

The letter informing of the initial fixed term suspension should clearly state that the reason for the fixed term suspension relates to the behaviour of the student, but also state if further investigation is needed that **"further investigation is still underway into the incident which may or may not result in a further sanction of further fixed suspension or permanent exclusion"**. Once the investigation is complete, a further letter should be sent containing one of the following;

- notification for the pupil to return to school;
 - notification of a further fixed term suspension to begin immediately after the first period ends;
- or



- notification of a permanent exclusion to be begin immediately after the end of the fixed term suspension. Each case will be judged on the facts and the context taking into account:
- The degree of severity of the offence;
- The likelihood of re-occurrence;
- The student's previous behavioural record;
- Contributory factors (e.g. recent bereavement, mental health issues, bullying, special educational needs and disabilities, harassment);
- Support provided;
- Take into account the school behaviour policy, special educational needs policy and equality law obligations.

Principal's Decision

The decision to exclude will be made after a review of the evidence available and will be on the balance of probabilities - i.e. is it more probable than not that the accused acted as alleged – and in response to a serious or persistent breaches of the school's behaviour policy and where allowing the student to remain in school would seriously harm the education or welfare of the student or others in the school.

Behaviour outside School

An Academy has the right to make decisions about behaviour taking place on trips, outings, sporting fixtures, or travel/movement in the vicinity of the Academy. Subject to the requirements of this policy, the Principal (or designated teacher in charge) may suspend students even if the circumstances giving rise to suspension occur when the student is out of school. Schools' own policies should make clear how this operates in practice, in line with the DfE guidance.

Police Involvement and Parallel Criminal Proceedings

The process of suspension from school and criminal proceedings can, and should, run parallel. However, in certain circumstances it may be appropriate for a decision to permanently exclude to be postponed if a police investigation has not been concluded. In such circumstances, an extended fixed term suspension should be used.

Responsibilities of the Principal

Principals should follow the procedures set out in the DfE Exclusion Guidance, which has been designed to ensure fairness and openness in the handling of suspensions. Following the guidance will reduce the chance of any successful legal challenge to the suspension at a later stage.

The DfE guidance is clear that only the Principal, or the acting Principal, can exclude a pupil.

Role of the LGB (Local Governing Body)

The United Learning Trust Charity Board has delegated powers to the LGB to review suspensions and must consider any representations about a suspension made by the parents of the excluded pupil. The LGB usually delegates some or all of its functions in respect of suspensions to a committee consisting of



at least three governors, who are independent and have had no direct involvement with the case; such a committee may be called the Behaviour Committee.

The LGB's role is to review suspensions. The LGB can either uphold a suspension, or direct reinstatement immediately or by a particular date. The LGB cannot extend a fixed term suspension nor substituted it with a permanent exclusion. The Behaviour committee must also follow annex A of the Exclusion guidance from DfE. (<https://www.gov.uk/government/publications/school-exclusion>)

Governing Body's Decision

A checklist for Behaviour Committees is available in the appendices. This should be used when making the final decision for every permanent suspension.

The Behaviour Committee must inform the parent, Principal and the LA of their decision, in writing without delay, preferably within one school day of the meeting, stating their reasons. Where the pupil resides in a different LA, they must also inform the pupil's 'home' LA.

A note of the Behaviour Committee's views on the suspension should be placed on the pupil's school record with copies of relevant papers.

If the Behaviour Committee directs reinstatement, this should take place as soon as possible. No conditions can be attached to any direction to reinstate the pupil save that the Committee can direct reinstatement on a particular date.

Where the Behaviour Committee upholds a permanent exclusion, there are specific requirements for what information should be included in the letter to parents.

Role of the Clerk to the Behaviour Committee

Background

The Behaviour Committee may appoint a Clerk. The Clerk must not be a member of the governing body or the Principal.

The role of the Clerk is to handle the administrative arrangements for considering suspensions. The Clerk should not have taught the pupil or been involved in any of the incidents involved in the case, and should not contribute to the meeting other than in an administrative capacity. Where possible the Clerk should be experienced in suspension matters so that the meeting can progress smoothly.

The Role of United Learning

The LA does not have a decision-making role in the suspension process for any school. The Charity Board has delegated this responsibility to each LGB. As part of considering each permanent exclusion, however, the Principal must consult fully with their Education Director United Learning (or delegated executive) before a decision is reached and the case presented to the Behaviour Committee.



It is the Behaviour Committee which has the duty to review the Principal's decision to exclude.

Education of Excluded Pupils

The LA is required to arrange full time educational provision for permanently excluded pupils from the 6th day of a permanent suspension. Once a Principal has decided to permanently exclude a pupil, the LA will arrange to assess the pupil's needs and how to meet them (even though the suspension might still be overturned by the school governors). The pupil's name will be deleted from the school roll only if:

- the pupil was permanently excluded; and
- 15 school days have passed since the parents were notified of the Behaviour Committee's decision to uphold the permanent exclusion; or
- the parents have stated in writing they will not be applying for an independent review panel.

It will be the responsibility of the LA to offer an alternative school place.

Independent Review Panels

Each LGB must take responsibility for setting up and training Independent Review Panels or make arrangements to use the service provided by the Local Authority. Note that the Independent Review Panel is only involved in reviewing permanent exclusions and only if requested by the parent/carer of the excluded pupil, and/or the pupil if over 18

Notifying parents

When a permanent exclusion is upheld by the Behaviour Committee, the Committee's decision letter to the parent must state the reasons for the decision, give the last day for lodging a review (within 15 school days) and explain that the grounds for the review should be set out in writing. If a parent does not request a review within the timescales the LGB must reject the application.

The timing of the hearing

An independent review panel must meet to consider an suspension no later than the 15th school day after the day on which the review was requested. However, if necessary, the panel may then decide to adjourn the hearing.

Composition of independent review panels

Review Panels must consist of 3 or 5 members.

A five- member panel must be constituted with two members from each of the categories of school governors and head teachers.

- 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 five years, provided they have not been teachers or head teachers during this time.
- Head teachers or individuals who have been a head teacher within the last five years.



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

- They are a member / director of the local authority / Academy Trust or governing body of the excluding school
- are the head teacher of the excluding school or anyone who has held this position in the last five years
- are an employee of the local authority / Academy Trust, or the governing body, of the excluding school (unless they are employed as a head teacher at another school)
- have, or at any time have had, any connection with the local authority / Academy Trust; school; parents or pupil; or the incident leading to the suspension, which might reasonably be taken to raise doubts about their impartiality (though an individual must not be taken to have such a connection simply because they are a head teacher at another school)
- have not had the required training within the last two years (see paragraph 116 of Suspensions from maintained schools, Academies and pupil referral units in England guidance)

Request for a SEN Expert

(see Section 8.5 of Suspension from maintained schools, Academies and pupil referral units in England guidance)

If requested by the parents, the person convening the panel must appoint a SEN Expert to attend the independent review panel. This request must happen when the request for an Independent review panel is made.

Parents have a right to the above, regardless of whether their child has recognised or identified SEN.

Role of the Clerk to the Independent Review Panel

It is strongly advised that the Independent Review Panel has a Clerk. The Clerk, if appointed, provides an independent source of advice on procedures for all parties.

Conduct and role of the Independent Review Panel

The role of the panel is to review the Behaviour Committee's decision not to reinstate a permanently excluded pupil. The panel must take account of the circumstances of the excluded pupil and all others in the school. The panel must apply the civil standard of proof (the balance of probabilities).

Reaching a decision

Information on what the panel should consider when coming to their decision can be found in section 9 of the DFE Guidance on suspensions.

The decision

An independent review panel can decide to:

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

The panel's decision can be decided by a majority vote. The panel can request that a copy of the decision letter is placed on the pupil's record and the school must comply with this request.



The panel may only quash a decision and direct reconsideration where it considers that the suspension was flawed when considered in the light of the principles applicable on an application for judicial review; illegality, irrationality and procedural impropriety.

Financial Penalties

Where a panel directs a governing body to reconsider an suspension it has the power to order that a readjustment of the Academy budget be made if the governing body does not offer to reinstate the pupil within 10 school days of receiving notification. The sum of this adjustment must be £4000, payable within 28 days, and will be in addition to other monies that follow permanently excluded pupils.

Reconvening a Behaviour Committee

If the independent review panel directs or recommends that the governing body reconsider the suspension, the governing body must meet to reconsider within 10 school days of notification. Where a governing body has reconsidered a suspension decision it must inform the relevant person, the Principal and the LA of its reconsidered decision and the reasons for it without delay.

After the independent review panel

The independent review panel is independent. Its decision is binding on the parent, the LGB and the Principal. The panel cannot revisit its decision once made.

The panel must let all parties know its decision without delay. The decision letter should give the panel's reasons for its decision in sufficient detail for the parties to understand why the decision was made.

If the independent review panel upholds the permanent exclusion, the Clerk should immediately report this to the LA. If the pupil is of compulsory school age, it is for the LA in whose area the pupil lives to make arrangements as quickly as possible for the pupil to continue in suitable full-time education. If the pupil lives outside the area of the LA, the Clerk should make sure that the home LA is also informed immediately of the position.

Where the suspension is upheld the Clerk should also advise the parent to contact the appropriate person at the home LA about arrangements for their child's continuing education. The Principal should remove the pupil's name from the school roll the day after the conclusion of the independent review panel.

Remedies after the independent review panel

A parent can complain to the Secretary of State via the Education Funding Agency at the Department for Education.

Judicial review

Decisions of both governing bodies and independent review panels can be subject to judicial review.

Claims of Discrimination in relation to suspension

Parents can also apply to the First-tier tribunal to hear cases of alleged disability discrimination, in addition to their current right to apply to a County Court to hear other cases of discrimination under the Equality Act 2010. The First-tier Tribunal will be able to direct reinstatement.



Appendix 1 Examples of Misconduct that May Lead to Permanent Exclusion

Permanent exclusions are extremely serious and should only be used in exceptional circumstances. Permanent exclusions should only be in response to persistent misconduct of a serious nature, where other sanctions have been attempted and not resulted in improved behaviour and conduct.

There are a few single incidents that may lead to a permanent suspension, these are:

- a serious breach of safety requirements likely to endanger other people or yourself;
- use or possession of or supply of alcohol or illegal drugs within the Academy premises or during Academy organised activities;
- removal or damage of Academy property;
- stealing from the Academy, employees of the Academy, or from students;
- intentional damage to property;
- abuse of the Academy's computer system and of the internet;
- sexual misconduct, abuse or assault;
- serious actual or threatened violence or physical assault against another pupil, member of staff or worker in the Academy;
- carrying an offensive weapon (defined as any item made or adapted for causing injury);
- bullying and/or harassment including racial, sexual or homophobic harassment;
- wilful defiance of the properly exercised authority of the Academy and its staff;
- bringing the Academy into disrepute or acting in a manner deliberately to undermine the Academy's principles or ethos.

