Cabot
Learning
Federation

Exclusions Policy

Cabot Learning Federation v3.3 June 2020

History of most recent Policy changes

Date	Page	Change	Origin of Change e.g. TU request, Change in legislation
Date	E.g. Whole Document	Detail of change	Reason for change
12th June 2017	Whole document	Implementation	Implementation of Federation wide policy
November 2017	Whole document	Review	New DfE guidance released
January 2020 V3.0	Items 6,7, 8 and 9	Equalities guidance added. Review to include guidance regarding clubs and wraparound care. Information added regarding risk assessments for vulnerable students	Cyclical review
April 2020 V3.2	Items 7.1 and 10.5	Information added regarding risk assessments and dealing with unforeseen academy closures	
June 2020 V3.3	Addendum	Addendum added outlining DfE guidance on exclusions during the Covid-19 pandemic	DfE Guidance released

Equalities Impact Assessment Screening

Date of screening: June 2020						
Name of person completing screening: Bryony Green and Wendy Hellin						
	Does this policy have the potential to impact on people in any of the identified groups?		What is the expected impact of this policy on any of the identified groups			Notes
	Yes	No	Positive	Neutral	Negative	
Age		x			x	
Disability		x			x	
Gender Reassignment		x			x	
Race or Ethnicity		x			x	
Religion or Belief		x			x	
Marriage		x			x	
Pregnancy/ Maternity		x			x	
Sex		x			x	
Sexual Orientation		x			x	
Carers / in-care		x			x	
Should the policy have a Full Equalities Impact Assessment? Yes / No						

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1 Policy Statement

1.1 Evergreen Primary Academy is committed to being a fully accessible and inclusive organisation, welcoming and respecting the diversity of its students, staff, community and visitors to the school.

1.2 This policy is underpinned by the commitment of all at Evergreen Primary Academy to ensure the safety and well-being of the whole school community and to maintain an appropriate and safe educational environment in which all students can learn and achieve.

1.3 This policy will make reference throughout to the Academy's Behaviour policy which can be found on the website.

2 The Legal Position

2.1 Evergreen Primary Academy is part of the Cabot Learning Federation. The federation adheres to the statutory guidelines detailed within the Department for Education's paper 'Exclusion from maintained schools, Academies and pupil referral units in England' 2017.

2.2 The principal legislation to which the Department for Education's guidance relates is:

- the Education Act 2002, as amended by the Education Act 2011;
- the School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012;
- the Education and Inspections Act 2006;
- the Education Act 1996; and
- 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 Principal's Power to Exclude

2.3 Further guidance issued by the DfE in May 2020 relating to remote access meetings and revised timescales during the Covid-19 pandemic is included in the addendum to this policy and should be read in full.

2.4 Any decision to exclude a pupil must be lawful; rational; reasonable; fair and proportionate.

2.5 The Principal will ensure he /she is proceeding within the guidance set out within the Department for Education's paper 'Exclusion from maintained schools, Academies and pupil referral units in England' 2017.

2.6 The Principal will take account of their legal duty of care when sending a pupil home following exclusion.

2.7 The Academy will only make lawful exclusions; students will not be sent home for part of a school day unless this is by way of a formal fixed term or permanent exclusion.

2.8 The behaviour of pupils outside school can be considered as grounds for exclusion.

2.9 The Principal will ensure appropriate investigations have been carried out, and that the pupil has been provided the opportunity to make a written statement.

2.10 When establishing the facts in relation to an exclusion decision the Principal will 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'.

2.11 Principals and Academy Councils will take account of their statutory duties in relation to special educational needs when administering the exclusion process.

2.12 The Principal may withdraw an exclusion that has not been reviewed by the Academy Council.

2.13 Further guidance issued by the DfE in May 2020 relating to remote access meetings and revised timescales during the Covid-19 pandemic is included in the addendum to this policy and should be read in full.

3 Fixed Term Exclusions

3.1 A pupil may be excluded for one or more fixed periods (up to a maximum of 45 school days in a single academic year). A fixed period exclusion does not have to be for a continuous period. Under the updated statutory guidance, Principals may no longer convert a fixed term exclusion to a permanent exclusion. It may sometimes be appropriate for Principals to issue a further fixed-period exclusion or issue a permanent exclusion (both immediately after the original exclusion), though this is limited to exceptional circumstances, usually where new information or evidence has come to light. This is a fresh decision and needs to be treated as such in terms of process, with parents informed without delay and a new exclusions notice issued.

3.2 Pupils whose behaviour at lunchtime is disruptive may be excluded from the school premises for the duration of the lunchtime period; one lunchtime period is counted as a half school day for calculation purposes.

3.3 Where a pupil has received multiple exclusions or is approaching the legal limit of 45 days in an academic year; Principals will consider whether exclusion is providing an effective sanction and will consider alternatives if appropriate.

4 Permanent Exclusions

4.1 A decision to exclude a pupil permanently can only be taken by the Principal:

- In response to serious or persistent breaches of the Academy's Behaviour Policy; and
- Where allowing the pupil to remain in school would seriously harm the education or welfare of the pupil or others in the school.

4.2 Principals must take account of any contributing factors that are identified after an incident of poor behaviour has occurred. For example, where it comes to light that a pupil has suffered bereavement, has mental health issues or has been subject to bullying.

4.3 The Academy will ensure early intervention is available to address underlying causes of disruptive behaviour, including an assessment of whether appropriate provision is in place to support any SEND that a pupil may have.

5 Alternatives to Exclusion

5.1 Exclusions will be given only where no other sanction is deemed appropriate.

5.2 Where an exclusion is permanent and is given for reasons of persistent breaches of the Academy Behaviour Policy, the Academy will demonstrate the means by which it has provided support and intervention to the pupil to address their individual needs. This may include (but is not limited to) a range of internal and external support, workshops, mentoring and counselling.

5.3 The Academy will, where appropriate, explore the possibility of a placement through suitable alternative internal provision. The Academy will, where appropriate, explore the possibility of a managed move to another CLF academy to avoid permanent exclusion. The threat of permanent exclusion will not be used as a means to encourage parents / carers to move their child to another school.

6 Equality

6.1 The decision to exclude a pupil must be lawful, reasonable and fair. Schools have a statutory duty not to discriminate against pupils on the basis of protected characteristics, such as disability or race. Schools should give particular consideration to the fair treatment of pupils from groups who are vulnerable to exclusion.

6.2 The Principal and Academy Council must comply with their statutory duties in relation to SEN when administering the exclusion process. This includes having regard to the SEND Code of Practice.

6.3 It is unlawful to exclude for a non-disciplinary reason. For example, it would be unlawful to exclude a pupil simply because they have additional needs or a disability that the school feels it is unable to meet, or for a reason such as: academic attainment/ability; the action of a pupil's parents; or the failure of a pupil to meet specific conditions before.

6.4 The academy should ensure that the behaviours exhibited that lead to the sanction are not a key feature of their disability. Any sanction given, including fixed or permanent exclusion, must be a considered and proportionate response.

6.5 Non-statutory advice from the Department for Education is available to help schools to understand how the Equality Act affects them and how to fulfil their duties under the Act and can be downloaded at the following link:

https://www.gov.uk/government/publications/equality-act-2010-advice-for-schools.

6.6 The SEND code of practice can be found here:

https://www.gov.uk/government/publications/send-codeof-practice-0-to-25.

7 Risk Assessment

7.1 When a student is to be excluded, the academy will consider if a risk assessment is appropriate given the circumstances of the student. This decision, and the reasons for it, should be recorded.

7.2 If such a risk assessment is deemed appropriate, the academy should complete a risk assessment that considers what is happening for the student when they are not in the academy – e.g. consideration around safeguarding (including contextual safeguarding risks) and the

health and wellbeing of the student. Where necessary the academy should consider if it is able to mitigate any of the risks that emerge.

8 Consideration of wraparound care and clubs or other activities before or after school

8.1 In the event of an excluded child (whether fixed or permanent exclusion) being registered to attend breakfast club or an after school club, (where that provision is run by the school), the exclusion would also cover attendance at that club or activity. This would also be the case where a third party provider runs the club, if it takes place within the academy grounds. The exclusion letter that is sent to the parent/carer should make this clear.

9 Reporting the Exclusion

9.1 The Principal will, without delay, notify the parents / carers of the period of the exclusion.

9.2 The Principal must write to the parents / carers stating:

- The reasons for the exclusion;
- That it extends to breakfast or after school clubs and activities (where relevant to the student);
- The period of a fixed term exclusion or confirmation that it is permanent;
- Parents / carer's rights to make representations about the exclusion to the Academy Council in line with the Department for Education's guidance 'Exclusion from maintained schools, Academies and pupil referral units in England' 2017;
- How any representation should be made;
- Where the Academy Council Disciplinary panel meet to review the exclusion, the parents /carers right to attend the meeting; be represented (at their own expense); or bring a friend.

9.3 The Principal will set out what arrangements have been made to enable the pupil to continue their education prior to the start of any alternative provision or the pupil's return to the Academy.

9.4 Where an excluded pupil is of compulsory school age, the Principal will notify the parents / carers without delay, and by the end of the afternoon session:

- That for the first five school days of an exclusion parents / carers are legally required to ensure that their child is not present in a public place during school hours without reasonable justification, and that parents / carers may be given a fixed penalty notice or prosecuted if they fail to do so.

9.5 Where it is necessary for a parent/carer to bring an excluded student to the academy to take a sibling to school, the excluded child should not enter the playground or academy site.

Arrangements may need to be made for a member of academy staff to meet the parent/carer at the academy gate.

9.6 The Principal will include in the notification relevant sources of free and impartial information as set out in the Department for Education's guidance 'Exclusion from maintained schools, Academies and pupil referral units in England' 2017.

9.7 The Principal will ensure information provided to parents /carers is clear and easily understood. Where the parents' first language is not English, consideration will be given, where practical, to translating the letter or taking additional steps to ensure that the details of the exclusion and their right to make representations to the Academy Council have been understood.

9.8 The Principal will, without delay, notify the Academy Council and the local authority of:

- A permanent exclusion;
- Exclusions which would result in the pupil being excluded for more than five school days in a term;
- Exclusions which would result in the pupil missing a public examination or national curriculum test.

9.9 For all other exclusions, the Principal will notify the local authority and Academy Council once a term.

10 Academy Council's Responsibilities

10.1 The Academy Council has a duty to consider parents' representations about an exclusion. The requirements on the Academy Council depend upon a number of factors determined in the Department for Education's paper 'Exclusion from maintained schools, Academies and pupil referral units in England' 2017.

10.2 The Academy Council may delegate their functions with respect to the consideration of an exclusion decision to a designated sub-committee consisting of at least three Academy Councillors from any CLF academy

10.3 The Academy Council 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 term exclusion which would bring the pupil's total number of school days of exclusion to more than 15 in a term;
- It would result in a pupil missing a public examination or national curriculum test.

10.4 The Academy Council or designated sub-committee must review the exclusion in line with the statutory guidance contained in the Department for Education's paper 'Exclusion from maintained schools, Academies and pupil referral units in England' 2017.

10.5 Where it is necessary to close an academy, or all academies in the trust, due to local or national incidents, every effort will be made to hold the Academy Council review, which may include using video conferencing and or other electronic means if deemed appropriate, and in line with

the DfE Guidance 'Exclusions from maintained schools, academies and pupil referral units in England (Sept 2017)', and in full consultation with the parent/carer.

10.6 The following parties must be invited to a meeting of the Academy Council and allowed to make representations:

- Parents or carers;
- The Principal;
- A representative of the local authority.

10.7 The Academy Council can either:

- Decline to reinstate the pupil;
- Direct reinstatement of the pupil immediately or on a particular date.

10.8 The Academy Council must notify parents, the Principal and the local authority of their decision, and the reasons for their decision, in writing and without delay. The notification should include specific information as outlined in the Department for Education's paper 'Exclusion from maintained schools, Academies and pupil referral units in England' 2017.

10.9 Parents / carers have the right to ask for the decision to be reviewed by an independent review panel. Any such request will be dealt with by the Clerk to the Board.

11 Academy Admissions Register

11.1 The Principal will remove a pupil's name from the Academy admissions register if:

- 15 school days have passed since the parents were notified of the Academy Council's decision to decline to reinstate the pupil following a permanent exclusion 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.

11.2 Where an application for an independent review panel has been made within 15 school days, the Principal will wait until the review has been determined, or abandoned, before removing a pupil's name from the register.

Addendum to the Exclusions Policy

1 Statutory Guidance

1.1 The following DfE statutory guidance describes the temporary changes made to the school exclusion process due to coronavirus (COVID-19).

1.2 The new regulations change some of the procedures that must be followed in relation to an exclusion, to give greater flexibility to schools, parents and local authorities during the coronavirus (COVID-19) outbreak. They apply to all maintained schools, academies (including alternative provision academies but excluding 16 to 19 academies) and pupil referral units (PRUs).

1.3 The normal arrangements and procedures that must follow a decision to exclude on disciplinary grounds are described in the 2017 statutory guidance 'Exclusion from maintained schools, academies and pupil referral units in England'. They are unchanged except as noted below.

1.4 The term 'governing board' used throughout this guidance includes the governing body of a maintained school, the management committee of a PRU or an academy trust.

2 Important dates

2.1 The arrangements come into force on 1 June 2020 and will apply to all exclusions occurring from then until 24 September 2020 (inclusive of those dates). The arrangements also apply to:

- permanent and fixed term exclusions occurring before 1 June which have not yet been considered by the governing board of the school
- permanent exclusions occurring before 1 June which have been considered by the governing board, if they have chosen not to reinstate the pupil and the time limit to apply for a review of this decision has not passed
- permanent exclusions occurring before 1 June where a parent (or pupil aged 18) has requested a review of a governing board's decision, but this has not yet happened

2.2 Any exclusions covered by the arrangements will continue to be subject to them after 24 September 2020, until the procedures for scrutiny of the exclusion have been exhausted.

2.3 An exclusion should be taken as having 'occurred' on the first day of the exclusion (not the date when the decision to exclude was made or communicated).

3 Remote access meetings

3.1 When governing boards or independent review panels (IRPs) have to meet to consider an exclusion, they can do so via telephone or video-conference software ('remote access') as long as certain conditions are met.

3.2 The conditions are that it is not reasonably practicable for the meeting to take place in person, within the usual timescales, because of coronavirus (COVID-19), and that the governing board (or arranging authority, if the meeting is an IRP) is satisfied that:

- all the participants agree to the use of remote access
- all the participants have access to the technology which will allow them to hear and speak throughout the meeting, and to see and be seen, if a live video link is used
- all the participants will be able to put across their point of view or fulfil their function
- the meeting can be held fairly and transparently via remote access

3.3 It is the responsibility of the school governing board (or the arranging authority in the case of an IRP meeting) to make sure these conditions are met before a meeting takes place.

3.4 The governing board or arranging authority should assess the facts of the case, the circumstances in which a meeting in person could be expected to take place, the needs of the intended participants (as far as this is possible), and the latest public health guidance when determining whether it would be reasonably practicable to meet in person.

4 Arranging a remote access meeting

4.1 The governing board or arranging authority should explain the technology they propose to use to participants and should make sure that the participants (particularly pupils and their families) know that they do not have to agree to a meeting to be held via remote access if they do not want to. They should make families aware that if they do not consent to a remote access meeting then the meeting is likely to be delayed.

4.2 Though all participants must have agreed to the use of remote access, where a parent or pupil has given their agreement for a meeting to be held via remote access, the other participants should make reasonable efforts to accommodate that preference unless there is a clear reason not to.

4.3 The normal requirements for who must be invited to a governing board or IRP meeting remain in place. However, those who have no intention of taking part in the meeting should not be treated as 'participants' for the purposes of the conditions stated above.

4.4 Governing boards, arranging authorities and panel members must comply with relevant equalities legislation and recognise that some participants may find it difficult to participate in a remote access meeting (for example, if someone has a disability or if English is not their first language).

4.5 If a meeting is held via remote access, every effort should be made by the chair to check the participants understand the proceedings and can engage with them, to ensure the meeting is conducted fairly. If, once the meeting starts, the meeting cannot proceed fairly (for example, because a participant cannot access the meeting), the governing board or IRP should adjourn the meeting.

4.6 The use of remote access does not alter other procedural requirements that may apply to governing boards, arranging authorities or IRPs. For example, if a parent requests the appointment of a special educational needs (SEN) expert to advise a review panel, the local

authority/academy trust must appoint one and cover the cost as normal. Parents may bring a friend or representative, as normal.

4.7 Though governing boards and IRPs must consider written representations if they are made, the law does not allow for solely paper-based 'meetings', conducted in writing.

4.8 As long as the conditions for a remote access meeting are met, it is possible for some participants to be present in person and for others to join the meeting via remote access. All the participants must have access to technology which will allow them to hear and be heard by others throughout (and to see and be seen throughout, if a live video link is used).

5 Timescales for meetings of governing boards

5.1 If it has not been reasonably practicable for governing boards to meet in person within the original time limit for a reason related to coronavirus (COVID-19) or remotely for a reason relating to the other conditions for a remote access meeting, the time limit for the meeting will be extended.

5.2 The time limit for a governing board meeting will not be extended if it has already passed before 1 June. The government appreciates that it may not have been possible to meet the normal time limits over recent months, due to the disruption caused by the coronavirus (COVID-19) outbreak and the health risks of holding meetings. Governing boards should arrange for overdue meetings to take place via remote access, if the conditions for such a meeting are met, or in person as soon as it is safe and practicable to do so.

5.3 If a time limit for a meeting has been extended, the governing board should reassess at regular intervals whether it is reasonably practicable to meet in person and, if it is, should arrange to do so without delay, in light of the need to minimise uncertainty for pupils and their families as far as possible.

6 Meetings to consider permanent exclusions, and fixed period exclusions resulting in the pupil missing more than 15 school days in a term

6.1 If a pupil is permanently excluded or receives a fixed period exclusion which results in them having been excluded for 16 or more school days in a term, then the governing board should try to meet to discuss reinstatement within 15 school days. If it has not been reasonably practicable for the governing board to meet face to face within 15 school days for reasons relating to coronavirus (COVID-19), and it has not been reasonably practicable to meet by way of remote access for a reason relating to the conditions for a remote access meeting, the limit will be extended to 25 school days, or as long as reasonably necessary for a reason related to coronavirus (COVID-19).

7 Meetings to consider fixed period exclusions resulting in the pupil missing between 6 and 15 school days in a term

7.1 If a pupil receives a fixed period exclusion which results in them having been excluded for at least 6 school days in a term but not more than 15 school days in that term, and the parent (or pupil, if aged 18 or above) chooses to make representations about the exclusion, then the governing board should meet to discuss reinstatement within 50 school days. If it has not been reasonably practicable for the governing board to meet face to face within 50 school days for reasons relating to coronavirus (COVID-19), and it has not been reasonably practicable to meet by way of remote access for a reason relating to the conditions for a remote access meeting,

the limit will be extended to 60 days, or as long as reasonably necessary for a reason related to coronavirus (COVID-19).

8 Timescales for application for independent reviews of exclusions

8.1 Where a governing board declines to reinstate a pupil who has been permanently excluded, parents (or the excluded pupil, if they are 18 years old or above) can apply for a review of the governing board's decision.

8.2 For exclusions covered under these arrangements, the deadline for applications has increased to 25 school days from the date on which notice in writing of the governing board's decision is given to parents, or directly to the pupil if they are 18 or above.

8.3 Schools must wait for the extended period of 25 school days to pass without an application having been made before deleting the name of a permanently excluded pupil from their admissions register, in accordance with the Education (Pupil Registration) (England) Regulations 2006 as amended.

9 Timescales for meetings of independent review panels to consider permanent exclusions

9.1 If it has not been reasonably practicable for a review panel to meet in person within the original time limit of 15 school days for reasons related to coronavirus (COVID-19), and it has not been reasonably practicable to meet by way of remote access for a reason relating to the other conditions for a remote access meeting, the timescale for the meeting will be extended to 25 school days, or as long as reasonably necessary for a reason related to coronavirus (COVID-19).

9.2 The time limit for an IRP meeting will not be extended if it has already passed before 1 June. The government appreciates that it may not have been possible to meet the normal time limits over recent months, due to the disruption caused by the coronavirus (COVID-19) outbreak and the health risks of holding meetings. Arranging authorities should arrange for overdue meetings to take place via remote access, if the conditions for such a meeting are met, or in person as soon as it is safe and practicable to do so.