



EXCLUSIONS POLICY

Date of last review:	April 2016	Review period:	2 years
Date of next review:	April 2018	Owner:	Governance Manager
Type of policy:	Network	LGB or Board approval:	Board

This policy reflects the guidance introduced and updated by the Department for Education in 2015. 'Independent Appeal Panels' have been replaced by 'Independent Review Panels' (IRPs). IRPs no longer have the power to reinstate a pupil, but if the decision of governors to uphold a permanent exclusion is quashed by the IRP and the pupil is not reinstated by governors upon reconsideration, there is a financial penalty for the school.

Exclusions Policy

1. The Law

Head teachers, governing bodies and Independent Review Panels must have regard to the guidance issued by the Secretary of State. The latest guidance was issued in 2015.¹

1.1 Fixed Term and Permanent Exclusions

There are two types of exclusion: fixed term and permanent.

There is a limit of 45 school days in an academic year for fixed term exclusions.

Permanent exclusions and any fixed term exclusions which result in the pupil being excluded for more than 15 school days (singly or cumulatively) must be reviewed by a panel of governors. Any exclusion must therefore be reported **immediately** to the Governance Team at Ark Schools at exclusions@arkonline.org. The Governance Team will then inform governors and arrange/clerk the required review meetings.

¹ Department for Education publication – *Exclusion from Maintained Schools, Academies and Pupil Referral Units in England- A Guide for those with Legal Responsibilities in Relation to Exclusion* (2015). Available online at <https://www.gov.uk/government/publications/school-exclusion>.

Exclusions must also be recorded on the MIS in a timely manner and reported to governors in the Principal's Report.

1.2 The Principal's Role in Exclusions

Only the Principal or acting Principal (or Head teacher) may exclude a pupil.

Exclusion can only be for a breach of an academy's behaviour policy, which must be widely published to all pupils and parents, preferably on the school's website. Care must be taken to avoid 'informal' or 'unofficial' exclusions (e.g. sending a child off-site for a 'cooling down' period). However, a pupil whose behaviour at lunchtime is disruptive may be excluded from the school premises for the duration of the lunchtime period.

Exclusions are illegal if they occur for the following reasons, among others:

- Because a child has additional needs/a disability that the school feels it is unable to meet;
- Lack of academic attainment/ability;
- Based on the actions of a pupil's parents; or
- Failure of a pupil to meet specific conditions before reinstatement.

Permanent exclusion should only be used as a last resort where all strategies to change behaviour have failed. This may be in response persistent breaches of the school's behaviour policy or for a 'one off' serious breach of the behaviour policy. It must be demonstrated that allowing the pupil to remain in school would seriously harm the education or welfare of the pupil or others in the academy.

Where an excluded pupil has a Statement of Special Educational Needs (SEN) or is on the SEN register, it must be demonstrated that the academy has provided extensive support to help the pupil and there should be intervention strategies in place which have been discussed with the pupil and parents.

Principals should ensure that the behaviour policy of the academy is reviewed on an annual basis and approved by the governing body.

1.3 Duty to Inform Parents

The parents/carers must be informed **immediately** and in writing of the length and type of exclusion, and of their right to make representations to the governors. Pupils over 18 have to be informed and have the right to appeal on their own behalf. Pursuant to the duty of care placed on schools to ensure the welfare of pupils, parents/carers must be advised of an exclusion prior to the child being sent off-site.

The Governance Team at Ark Schools have drafted standard letters for notifying parents of exclusions and an explanatory note to accompany each letter setting forth their rights of representation.

1.3 Review of the Decision to Exclude

In all cases of permanent exclusion and fixed term exclusions amounting to over 15

days in a term (cumulatively or singly), the decision of the Principal **must** be reviewed.

The quorum is three governors, with a clerk appointed by ARK Schools. Governors appointed will constitute the Governors' Discipline Committee ("the GDC"). The Principal cannot be a member of the GDC. Subject to the availability of governors review meetings should be held within a period of 15 days from the date of the exclusion. **It is important** that ARK schools are advised **without delay** and the principal makes arrangements for paperwork to be prepared immediately. Model statements by Principal's for governor review meetings are available from ARK schools.

- Fixed term exclusions totalling **five or fewer school days**, or 10 or fewer lunch-times or half days in any one term must be reported to the governors at each meeting and recorded on the MIS. The governing body can agree to set up a meeting with the parent(s) if they make representations about one of these exclusions but does not have to do so, though it must consider any representations made by the parent.
- If an exclusion means that a pupil will **miss a public exam**, the GDC should try to meet before the date of the exam. If this is not practicable, the chair of governors can use the emergency powers for chair's action to review the exclusion.
- For fixed term exclusions of **6 to 15 school days**, the GDC must meet to consider any representations from the parent if received.
- For fixed term exclusions of **more than 15 days** in one term or which cumulatively add up to more than 15 days, and for **permanent exclusions**, the GDC must hold a formal hearing within 15 school days, whether or not the parent(s) make representations.

The GDC may confirm the exclusion or direct reinstatement of the pupil. There is no legal option to impose a lesser sanction, i.e. to commute a permanent exclusion to a fixed term one.

The GDC can direct that any pupils excluded for a fixed term of more than five days **or** pupils who would miss a public exam **or** permanently excluded pupil are reinstated.

If the pupil is to be reinstated, a re-integration programme should be planned with the school.

If reinstatement is not practicable, because the pupil is already back in school or because the parent does not want it, the GDC must consider the representations made by the school and parent(s), and decide whether or not the exclusion was justified. The decision should be included in the pupil's record.

After the governor review hearing, the clerk informs the parties in writing about the result, with reasons for the decision. Decisions are communicated as soon as possible

and every attempt is made to do this within 3 to 5 working days.

If a permanent exclusion is upheld, parent(s) must be told of their right to seek an independent review of the decision reached by governors, and the deadline for seeking a review. They also have the right to have a SEN expert attend the independent review panel meeting (IRP). When ARK Schools writes to the parent(s) communicating the decision reached by governors details of the right of independent review are also given. The parent(s)/carers have 15 school days (from the date when notified of the GDC decision) to seek an IRP meeting.

1.4 Principles of natural justice

- All decisions to exclude are based on a balance of probabilities – both by Principals and at any subsequent review. In making their decisions to exclude Principals must ensure that their decisions are fair and based on the facts of the incident and do not include any elements of discrimination. Where a GDC reviews a decision to exclude, the latter issue will be tested.
- Members of the GDC should be impartial, unprejudiced, have taken no previous part in the case, and have no personal or school interest in its result. Principals should not discuss individual exclusions with members of their governing body as cases may be referred to the GDC for review.
- Parent(s) should be informed of the case put forward by the school and have an opportunity to challenge it.
- Both parties should be allowed to present their case without unreasonable interruption.
- Parent(s) should be able to bring a friend or adviser with them.
- All documents to be used in evidence should be distributed to all parties at least five working days before the hearing. If new material is introduced at the hearing, all parties must have time to consider it.
- No party to the hearing should be in the presence of the GDC unless the other party is also present. Everyone should feel that they have had a chance to put their case and have been listened to.

1.5 Independent reviews

ARK Schools is responsible for managing independent reviews against permanent exclusion and external agencies are used for this purpose.

The review must be heard within 15 school days from the date when the parent(s)/carers appeal. The independent review is normally attended by the Principal, lead academy staff member on the case, chair of the relevant GDC. The clerk may attend but plays no formal part in proceedings. Where the parent/carer has legal representation or it is considered appropriate on behalf of the academy, it may be agreed that the academy should also have legal representation. This will be

arranged by ARK Schools.

IRPs cannot direct that a pupil is re-instated (as its predecessor could). IRPs powers are restricted to a) upholding the exclusion, b) recommending that the GDC reconsiders its decision and c) quashing the GDC decision and directing the GDC to reconsider its decision. If in the latter case, the GDC does not meet or maintains its original decision, there is a financial penalty.

1.6 Parallel police proceedings

The GDC has no power to delay a hearing beyond the statutory time limit because of police proceedings. If a permanent exclusion is upheld in these circumstances, the parent has 15 days to appeal to the IRP in the normal way.

1.7 Required paperwork for GDC review meetings.

Guidance on exclusions has been issued for Principals and LGB members. This will concentrate on the standard of paperwork required for GDC review meetings and should be referred to by Principals or those members of staff delegated with responsibility for investigating breaches of behaviour policies.

It is necessary to state here that students should only be excluded for a breach of the academy behaviour policy. That the appropriate exclusion letter and advice note should be sent to parents and copied without delay to ARK Schools. There should be no delays in gathering evidence and witness statements because the academy and ARK Schools is under a legal obligation to meet statutory deadlines imposed for governor review meetings.

1.8 Other relevant legislation

The Education Act 2002 as amended, The School Discipline Regulations 2012, The Education and Inspection Act 2006, The Education Regulations 2007 (provision of full time education for excluded pupils) Sex Discrimination, Race Relations, Human Rights and Equality legislation. SEN guidance.