



THE
DE LA SALLE
ACADEMY

EXCLUSION POLICY

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Purpose

The purpose of this policy is to ensure that:

- The exclusions process is applied fairly and consistently
- The exclusions process is understood by governors, staff, parents and students
- Students in school are safe and happy
- Students do not become NEET

Legislation and statutory guidance

- This policy is based on statutory guidance from the Department for Education: *Exclusion from maintained schools, academies and student referral units (PRUs) in England.*

It is based on the following legislation, which outline schools' powers to exclude students:

- *Section 52 of the Education Act 2002, as amended by the Education Act 2011*
- *The School Discipline (Student Exclusions and Reviews) (England) Regulations 2012*
- *Sections 64-68 of the School Standards and Framework Act 1998*

Exclusions

Only the Principal is able to exclude a student. In the absence of the Principal, a student will be isolated until a decision can be made. A Permanent exclusion will be taken as a last resort.

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

"...the practice of removing a student 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 student."

We are committed to following all statutory exclusions procedures to ensure that every child receives an education in a safe and caring environment.

If a student is excluded from the Academy, it means that he is not allowed to attend for the period of the exclusion. During this time, parents have full responsibility for him.

There are three types of exclusion:

- **Contemplation:** this is when a student is excluded within the academy for a period of time. This is generally used for one day or up to three as a maximum. This form of exclusion is used if the behaviour is a repeated offence but not severe enough warrant a fixed term exclusion.
- **Fixed term:** This exclusion can be for anything from half a day, up to 5 days at any one time, this can be extended in extenuating circumstances. Fixed term exclusions cannot exceed 45 days in any one academic year. This form of exclusion means that a student is to remain at home during school hours.

- **Permanent** exclusion when the academy sees no other choice than to make the decision that a student does not return to the academy for their education.

Students are excluded from the academy when they behave in ways which cause disruption to lessons, or cause distress, offence or harm to others.

Usually, an exclusion will be a last resort after other sanctions have been tried, but occasionally an offence is so serious that an exclusion may be imposed immediately.

Exclusions demonstrate to the academy community that the student, by his misconduct, has placed himself outside the accepted code of behaviour and is being removed from the community for a certain time or permanently. Expectations of behaviour are set out in the academy's behaviour policy and in the home school agreement.

In the event of an exclusion, the parent/carer will be contacted via a telephone call and will be informed of the exclusion. A letter will be sent by first class post informing parents that their son has been excluded from the Academy. The letter will indicate the reason for the exclusion, the length of the exclusion and the arrangements for the boy's return to the Academy. If possible, the student will be given a copy of the letter to take home so that his parents are informed immediately of the situation.

The letter informing parents of an exclusion advises them of their right to make representations regarding the exclusion to the Academy Governors.

Fixed term exclusions:

- Parents who wish to complain should write to the Chair of Governors at the Academy address within 7 days of receiving notification of the exclusion from the Principal. Parents may be invited to meet with the Chair or a group of Governors to discuss their objections. It must be remembered that the student will probably already have returned to the Academy before such a meeting can be arranged.
- Under new legislation: For exclusions of more than 5 days, the Governors' Pastoral & Discipline sub-committee must meet to consider these exclusions and decide whether or not to uphold the Principal's decision. Parents may make representations at these meetings.
- All exclusions will be followed by a parental meeting. During this meeting, targets for improving behaviour will be discussed. Students returning will either be placed on report or have an Individual Behaviour Plan written and agreed. This next step will be determined by the behaviour record of the student returning to school.

Permanent exclusions:

- If a student is permanently excluded by the Principal, the Governors' exclusion panel must meet within 15 school days of being notified to consider the exclusion.
- Parents will be invited to attend the meeting, accompanied by a friend or representative if they wish. Before the meeting, parents will be sent a copy of their son's disciplinary record that is to be presented to the Governors. The Principal will be present at the meeting to explain why the decision to permanently excluded the student has been made but will leave while the Governors reach their decision.

The Governors may also wish to speak to the student and will do so with the permission of, or at the request of, the parents.

- If the committee decides to overturn the Principal's decision, a date will be given for the student to return to school.
- If the committee resolves to uphold the permanent exclusion, parents will be notified without delay and will have 15 school days in which to appeal in writing to the Clerk to the Governors at the academy address. An independent panel will be convened to hear the appeal within 15 school days and this will be arranged by the Local Authority. The decision of the independent panel is legally binding on both parties. The exclusion of a child from the academy can be a very worrying and upsetting time for the parents. It is important, however, that concerns are expressed in a constructive way so that the problem may be resolved in the best interests of the student.

In the event of a permanent exclusion, parents/guardians can request work for the first five days of the exclusion. During any exclusion, the student must not present themselves in or around the academy grounds during school hours.

Roles and Responsibilities

Principal

In addition to that outlined under fixed term and permanent exclusion section, the principal must also ensure the following:

Informing the governing board and local authority

The principal will immediately notify the governing board and the local authority (LA) of:

- A permanent exclusion, including when a fixed-period exclusion is made permanent
- Exclusions which would result in the student being excluded for more than 5 school days (or more than 10 lunchtimes) in a term
- Exclusions which would result in the student missing a public examination

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

For all other exclusions, the principal will notify the governing board once a term.

The Governing Body

Responsibilities regarding exclusions is delegated to the governing body – this can be smaller than 3 governors.

The governing body has a duty to consider the reinstatement of an excluded student (see section 6).

Within 14 days of receipt of a request, the governing body will provide the secretary of state and the LA with information about any exclusions in the last 12 months.

For a fixed-period exclusion of more than 5 school days, the governing body will arrange suitable full-time education for the student. This provision will begin no later than the sixth day of the exclusion.

Provision does not have to be arranged for students in the final year of compulsory education who do not have any further public examinations to sit.

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 exclusion.

Considering the reinstatement of a student

The governing body will consider the reinstatement of an excluded student within 15 school days of receiving the notice of the exclusion if:

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

If requested to do so by parents, the governing body will consider the reinstatement of an excluded student within 50 school days of receiving notice of the exclusion if the student would be excluded from school for more than 5 school days, but less than 15, in a single term.

Where an exclusion would result in a student missing a public examination, the governing body will consider the reinstatement of the student before the date of the examination. If this is not practicable, the governing body will consider the exclusion and decide whether or not to reinstate the student.

The governing body can either:

- Decline to reinstate the student, or
- Direct the reinstatement of the student immediately, or on a particular date

In reaching a decision, the governing body will consider whether the exclusion was lawful, reasonable and procedurally fair and whether the principal followed their legal duties. They will decide whether or not a fact is true 'on the balance of probabilities', which differs from the criminal standard of 'beyond reasonable doubt', as well as any evidence that was presented in relation to the decision to exclude.

Minutes will be taken of the meeting, and a record of evidence considered kept. The outcome will also be recorded on the student's educational record.

The governing body will notify, in writing, the principal, parents and the LA of its decision, along with reasons for its decision, without delay.

Where an exclusion is permanent, the governing body's decision will also include the following:

- The fact that it is permanent
- Notice of parents' right to ask for the decision to be reviewed by an independent review panel, and:
- The date by which an application for an independent review must be made
- The name and address to whom an application for a review should be submitted
- That any application should set out the grounds on which it is being made and that,

where appropriate, reference to how the student's SEN are considered to be relevant to the exclusion

- That, regardless of whether the excluded student has recognised SEN, parents have a right to require the academy trust to appoint an SEN expert to attend the review
- 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 exclusion has occurred as a result of 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. A 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

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 governing body not to reinstate a permanently excluded student.

Applications for an independent review must be made within 15 school days of notice being given to the parents by the governing body of its decision to not reinstate a student.

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 school governors' category and 2 members will come from the principal category.

- 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 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 of the academy trust, or governing body of the excluding school
- Are the principal of the excluding school, or have held this position in the last 5 years
- Are an employee of the academy trust, or the governing body, of the excluding school (unless they are employed as a Headteacher at another school)
- Have, or at any time have had, any connection with the academy trust, school, governing body, parents or student, 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 (see appendix 1 for what training must cover)

A clerk will be appointed to the panel.

The independent panel will decide one of the following:

- Uphold the governing body's decision
- Recommend that the governing body reconsiders reinstatement
- Quash the governing body's decision and direct that they reconsider reinstatement (only when the decision is judged to be flawed)

The panel's decision can be decided by a majority vote. In the case of a tied decision, the chair has the casting vote.

School Register

A student's name will be removed from the school admissions register if:

- 15 school days have passed since the parents were notified of the exclusion panel's decision to not reinstate the student 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 governing body will wait until that review has concluded before removing a student's name from the register.

Where alternative provision has been made for an excluded student and they attend it, code B (education off-site) or code D (dual registration) will be used on the attendance register.

Where excluded students are not attending alternative provision, code E (absent) will be used.

Appendix 1:

Independent review panel training

The academy trust must ensure that all members of an independent review panel and clerks have received training within the 2 years prior to the date of the review.

Training must have covered:

- The requirements of the primary legislation, regulations and statutory guidance governing exclusions, which would include an understanding of how the principles applicable in an application for judicial review relate to the panel's decision making
- The need for the panel to observe procedural fairness and the rules of natural justice
- The role of the chair and the clerk of a review panel
- The duties of headteachers, governing boards and the panel under the Equality Act 2010
- The effect of section 6 of the Human Rights Act 1998 (acts of public authorities unlawful if not compatible with certain human rights) and the need to act in a manner compatible with human rights protected by that Act