

The Lotus Academy Trust



Supporting children to find opportunities in every difficulty

The Damara School



Specialist SEMH Independent School

# Exclusions Policy

Approved by: Trust Board

Initial Ratification: August 2019

Reviewed: Oct 20; Oct 21; Feb 23, Nov 2024

Next review due by: October 2026

## 1. Aims

Our school aims to ensure that:

- The exclusions, suspension or termination of placement process is applied fairly and consistently
- The exclusions, suspension or termination of placement process is understood by trustees, staff, parents and pupils
- Pupils in school are safe and happy
- Pupils do not become NEET (not in education, employment or training)

## 2. Legislation and statutory guidance

This policy is based on statutory guidance from the Department for Education: [Exclusion from maintained schools, academies and pupil referral units \(PRUs\) in England](#).

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

- Section 52 of the Education Act 2002, as amended by the Education Act 2011
- The School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012

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 our articles of association.

## 3. The decision to exclude/suspend

Only the CEO, can exclude or suspend a pupil from school. A termination of placement will be taken as a last resort.

Our school 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 are committed to following all statutory exclusions, suspension or termination of placement procedures to ensure that every child receives an education in a safe and caring environment.

A decision to exclude a pupil will be taken only:

- In response to serious or persistent breaches of the school's behaviour policy, **and**
- If allowing the pupil to remain in school would seriously harm the education or welfare of others

Before deciding whether to exclude a pupil, either permanently or for a fixed period, the CEO will:

- Consider all the relevant facts and evidence, including whether the incident(s) leading to the exclusions, suspension or termination of placement were provoked
- Allow the pupil to give their version of events
- Take into account the pupil's special educational needs (SEN)

When a decision to cease placement is made, an emergency EHCP review with the relevant stakeholders will be held at the point of risk and prior to the finalisation of the cessation of placement.

## **4. Definition**

For the purposes of exclusions, suspension or termination of placement, school day is defined as any day on which there is a school session. Therefore, INSET or staff training days do not count as a school day.

## **5. Roles and responsibilities**

### **5.1 The CEO**

#### **Informing parents**

The CEO will immediately provide the following information, in writing, to the parents of an excluded or suspended pupil:

- The reason(s) for the exclusions, suspension or termination of placement
- The length of a fixed-term exclusion or suspension or, for a termination of placement, the fact that it is permanent
- Information about parents' right to make representations about the exclusions, suspension or termination of placement to the trust board and how the pupil may be involved in this
- How any representations should be made
- Where there is a legal requirement for the trust board 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 CEO will also notify parents by the end of the afternoon session on the day their child is excluded or suspended or their placement is terminated that for the first 5 school days of an exclusion or suspension, or until the start date of any alternative provision where this is earlier, parents are legally required to ensure that their child is not present in a public place during school hours without a good reason. 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 an exclusion or suspension:

- 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 termination of placement in which case the information can be provided with less than 48 hours' notice with parents' consent.

#### **Informing the trust board and local authority**

The CEO will immediately notify the trust board and the local authority (LA) of:

- A termination of placement including when a fixed-period exclusion or suspension is followed by a decision to terminate the placement of a pupil

- Exclusions or suspensions which would result in the pupil being excluded or suspended for more than 5 school days (or more than 10 lunchtimes) in a term
- Exclusions or 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 school is located, the CEO will also immediately inform the pupil's 'home authority' of the exclusion or suspension and the reason(s) for it without delay.

For all other exclusions or suspensions, the CEO will notify the trust board and LA once a term.

## 5.2 The trust board

The trust board has a duty to consider the reinstatement of an excluded or suspended or terminated placement pupil (see section 6).

Within 14 days of receipt of a request, the trust board will provide the secretary of state information about any exclusions, suspension or termination of placement in the last 12 months.

For a fixed-period exclusion or suspensions of more than 5 school days, the trust board will arrange suitable full-time education for the pupil. This provision will begin no later than the sixth day of the exclusion.

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

## 5.3 The LA

For placements that have been terminated, the LA is responsible for arranging suitable full-time education to begin no later than the sixth day of the exclusion.

## 6. Considering the reinstatement of a pupil

The trust board will consider the reinstatement of a pupil whose placement has been terminated within 15 school days of receiving the notice of the cessation if:

- The termination is permanent
- It is a fixed-term exclusion or suspension 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

If requested to do so by parents, the trust board will consider the reinstatement of an excluded or suspended pupil or where the placement has been terminated within 50 school days of receiving notice of the exclusion, suspension or termination of placement if the pupil would be exclusions, suspension or termination of placement from school for more than 5 school days, but less than 15, in a single term.

The trustees of the trust board can either:

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

In reaching a decision, the trust board will consider whether the exclusions, suspension or termination of placement was lawful, reasonable and procedurally fair and whether the CEO 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 pupil's educational record.

The trust board will notify, in writing, the CEO, parents and the LA of its decision, along with reasons for its decision, without delay.

Where the placement is terminated, the trust board 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 pupil's SEN are considered to be relevant to the exclusions, suspension or termination of placement
- That, regardless of whether the excluded, suspended pupil or where the pupil's placement has been terminated, has recognised SEN, parents have a right to require the 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, suspension or termination of placement 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

## **7. An independent review**

If parents apply for an independent review, the trust will arrange for an independent panel to review the decision of the trust board not to reinstate a pupil whose placement was terminated.

Applications for an independent review must be made within 15 school days of notice being given to the parents by the trust board 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 trust board and 2 members will come from the school senior leadership 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 trustees who have served as a trustee for at least 12 consecutive months in the last 5 years, provided they have not been teachers, CEO, Headteacher or Head of School during this time
- CEO or individuals who have been a CEO within the last 5 years

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

- Are a director of the trust, or trust board of the school from which the pupil is on roll
- Are the Headteacher/Head of School of the school from which the pupil is on roll, or have held this position in the last 5 years
- Are an employee of the academy trust, or the trust board, of the school from which the pupil is on roll (unless they are employed as a CEO at another school)
- Have, or at any time have had, any connection with the academy trust, school, trust board, parents or pupil, or the incident leading to the exclusion or suspension, 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 trust board's decision
- Recommend that the trust board reconsiders reinstatement
- Quash the trust board'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.

## **8. School registers**

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

- 15 school days have passed since the parents were notified of the 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 trust board will wait until that review has concluded before removing a pupil's name from the register.

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

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

## **9. Returning from a fixed-term exclusion or suspension**

Following a fixed-term exclusion or suspension, a re-integration meeting will be held involving the pupil, parents, a member of senior staff and other staff, where appropriate.

The following measures may be implemented when a pupil returns from a fixed-term exclusion:

- Agreeing a behaviour contract and putting a pupil 'on report'

## **10. Monitoring arrangements**

The administrator monitors the number of exclusions or suspensions every term and reports back to the CEO. They also liaise with the local authority to ensure suitable full-time education for pupils whose placement has been terminated.

This policy will be reviewed by the CEO every 3 years. At every review, the policy will be approved by the Trust board.

## **11. Links with other policies**

This exclusions policy is linked to our

- Behaviour policy
- SEN policy and information report

## **Appendix 1: Independent review panel training**

The 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 trust exclusions or suspensions or termination of placement, 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 CEO, trust 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