

East Midlands Academy Trust

Pupil Suspension and Exclusion Policy 2022/2023

'Every child deserves to be the best they can be'

Scope: East Midlands Academy Trust & Academies within the Trust	
Version: V4	Filename: EMAT Pupil Suspension & Exclusion Policy
Approval: September 2022	Next Review: September 2023 <i>This Policy will be reviewed by the Trust Board (S&P) annually</i>
Owner: East Midlands Academy Trust Board of Trustees	Union Status: Not Applicable

Policy type:	
Statutory	Replaces Academy's current policy

Revision History

RevisionDate	Revisor	Description of Revision
Sept 2022- V4	M Juan	<p>New EMAT policy issued following changes in the DfE statutory guidance including the following updates:</p> <ul style="list-style-type: none"> • Headteachers may cancel an exclusion that has not been reviewed by the governing board. • When headteachers suspend or permanently exclude a pupil they must, without delay, notify parents and/or social worker • When headteachers suspend or permanently exclude a pupil, they must also notify the local authority, without delay regardless of the length of a suspension. • Guidance on the role of a social worker and VSH, during governing board meetings and IRP meetings. • Guidance on managed moves, what they are and how they should be used. • Clarified guidance on the use of off-site direction as a short-term measure that can be used as part of a school's behaviour management strategy. • Further guidance on the practice of involving pupils in all stages of the suspension or permanent exclusion process. • Guidance for governing boards to ensure that they review data appropriately.
June 2022 – V3	M Juan	Policy review – COVID19 mentions in policy introduction have been removed
July 2021 – V2	M Juan	Policy review – No Changes
July 2020 – v1	M Juan	New EMAT Pupil Exclusion Policy issued to all schools

EMAT Pupil Suspension and Permanent Exclusion Policy

1. Introduction

At East Midlands Academy Trust we expect excellent standards of behaviour to ensure an effective learning environment. The highest regard is given to the quality of relationships between all members of our school community so that everyone feels valued and respected. We encourage a calm, respectful and purposeful atmosphere where students can enjoy their learning and achieve their potential.

Our priority is to maintain a safe and orderly school environment to promote learning and support the development and good mental health of all in our school community. We actively teach good behaviours and promote the positive impacts of good behaviour for everyone's wellbeing and enjoyment of school.

Our Behaviour Policy sets out the ways in which we achieve this including the use of both rewards and sanctions. Along with other sanctions, all school are empowered to impose suspensions (previously known as fixed-term exclusions) and permanent exclusions in certain circumstances. This Suspension and Exclusion Policy sets out the circumstances in which these sanctions may be used and the procedures which will be followed.

The EMAT Behaviour Policy can be found on our website.

2. Aims

All parties involved in suspensions and exclusions, including Headteachers, parents, local advisory boards, and Independent Review Panels, must have regard to the statutory guidance ['Suspension and Permanent Exclusion from maintained schools, academies and pupil referral units in England, including pupil movement' \(September 2022\)](#)

At 72 pages long, however, the guidance can be inaccessible and overwhelming to many. This policy aims to set forth rights and responsibilities around exclusion with clarity and brevity to ensure that all exclusion proceedings at EMAT Schools are conducted in a fair and just manner, with appropriate notice to all, full participation of relevant parties, and within the statutorily designated timelines.

The aims of our suspension and exclusion policy are to explain:

- The actions we take to minimise the need to impose suspensions or exclusions
- The circumstances in which suspension or exclusion may be used
- The process by which they will be used
- The roles and responsibilities of people and groups of people in our school in the suspension and exclusion process
- The support offered to students who are suspended or excluded including those who are at an increased risk of exclusion or who may be especially vulnerable to the impacts of exclusion

3. The decision to suspend or exclude

Only the headteacher, or acting headteacher, has the authority to suspend or exclude a student from school and this will only ever be on disciplinary grounds.

The headteacher may withdraw a suspension or permanent exclusion that has not yet been reviewed by the Local Advisory Board.

A pupil's behaviour outside the academy can be considered grounds for a suspension or permanent exclusion.

In line with the principles of administrative law any decision the headteacher makes to exclude a student must be: **Lawful, Rational, Reasonable, Fair and Proportionate.**

Suspension: The decision to suspend a student may be issued for a breach of the academy's behaviour policy.

We are mindful that the government does not regard suspension or exclusion to be justified for:

- A breach of uniform or appearance, except for persistent defiance of the school's uniform expectations
- Minor incidents, such as failure to complete home learning
- Poor academic work
- Lateness or truancy
- Pregnancy
- Misdeeds by a child who has special educational needs where that need is the reason for the behaviour, except for very serious offences.

Permanent Exclusion: The decision to permanently exclude a student will be taken only:

- In response to a serious breach or persistent breaches of the academy's behaviour policy, and
- If allowing the student to remain in school would seriously harm the education or welfare of others.

A permanent exclusion will be used only as a last resort and, in the case of a permanent exclusion for persistent breaches of the behaviour policy, only when a range of strategies have been tried without success.

There may be exceptional circumstances where, in the head teacher's judgement, it is appropriate to permanently exclude a child for a first or 'one off' offence. These might include:

- Serious actual or threatened violence (physical and/or verbal) against another student or a member of staff
- Sexual abuse or assault
- Supplying an illegal drug
- Carrying an offensive weapon

- Damage to academy property including the building
- Substance abuse
- Racially motivated incidents
- Other behaviour which is against the criminal law

The school may also consider it necessary to inform the police where a criminal offence has taken place and / or whether to inform other professionals such as Children's Social Care.

There is a limit of 45 school days in an academic year for suspensions. The law does not allow for extending a suspension or 'converting' a suspension into a permanent exclusion. In cases involving serious breaches of the behaviour policy where additional evidence (including mitigating evidence) is required before making a decision whether to exclude, the school may issue a suspension pending investigation. Following investigation, the school may issue a further separate suspension to begin immediately after the first period ends **or** a separate permanent exclusion to begin immediately after the end of the suspension. In certain instances, the school will assess the information available and may decide to implement a permanent exclusion during the investigation, withdrawing this if the evidence does not support the decision after further investigation.

On the sixth day of a suspension, the school (or local authority, in the event of a permanent exclusion) must arrange suitable full-time education for any pupil of compulsory school age. Where a pupil receives consecutive suspension, these are regarded as a cumulative period of suspension for the purposes of this duty. Academies must carefully assess the quality of the alternative educational provision and ensure appropriate safeguarding measures at these providers.

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.

A panel of governors must review permanent exclusions and any suspensions which result in the pupil being excluded for more than 15 school days (singly or cumulatively) within one term. Schools are responsible for recording all exclusions on the school's relevant Management Information System in a timely manner and keeping careful track of suspension that total more than 15 days in a term.

All exclusions must be reported to East Midlands Academy Trust at info@emat.uk. If an exclusion requires review (i.e. suspensions totalling more than 15 days in a term *or* permanent exclusions), schools should also notify the Governance Team at EMAT **as soon as the period of suspension starts**, in order to allow the timely arranging and clerking of the required review meetings. Permanent exclusions must also be reported to the local authority immediately to ensure the local authority will be able to fulfil its duty to provide alternative educational provision from the sixth day of the exclusion.

All suspension and permanent exclusions must be reported to governors in the Headteacher's Report.

4. The Headteacher's Role in Exclusions

Only the Headteacher or acting Headteacher may suspend or permanently exclude a pupil. The headteacher will ensure that the required processes are followed and will provide information to parent(s) / carer(s) of students who have been suspended or excluded, in line with legislation.

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. This must be recorded as a half-day exclusion. Academies may also arrange for 'lunchtime respite' as part of a behavioural support plan, but this must be agreed by parents/carers, must be short-term in duration and closely monitored for effectiveness.

Where a pupil has received multiple suspensions or is approaching the legal limit of 45 school days of cumulative suspensions in an academic year, the Headteacher should consider whether exclusion is providing an effective sanction.

Exclusions are illegal if they occur for non-disciplinary reasons, such as:

- additional needs for a disability that the school feels it is unable to meet;
- lack of academic attainment/ability;
- the actions of a pupil's parent(s); or
- failure of a pupil to meet specific conditions before reinstatement.

Permanent exclusion should only be used as a last resort where all alternatives have been considered and all strategies to change behaviour have failed. 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 Special Educational Needs and Disability (SEND) or is on the SEND register, it must be demonstrated that the academy has regard for the SEND Code of Practice and has provided extensive means of support to help meet the pupil's needs. Early intervention to address underlying causes of disruptive behaviour should include an assessment of whether appropriate provision is in place to support any SEND that a pupil may have. Any intervention strategies should be discussed with and involve the pupil's parents.

Headteachers should ensure that the behaviour policy of the academy is reviewed on an annual basis and approved by the Local Advisory Board.

5. Duty to Inform Parents

The parent(s) must be informed **without delay** of the length and type of exclusion and of their right to make representations to the governors. Ideally, this notification should be by telephone or in person in the first instance, followed by a letter. Written notification can be provided by delivering it directly to the parents, leaving it at their usual or last known home address, or posting it to that address. Notices can also be sent electronically if the parents have given written agreement for this kind of notice to be sent in this way.

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, parent(s) must be advised of an exclusion prior to the pupil being sent off-site.

To ensure compliance with the most up-to-date government guidance, EMAT maintains standard letters for notifying parents of any type of exclusions and an explanatory note to accompany each letter setting forth their rights of representation.

6. The role of Governance - Review of the Decision to Exclude

In all cases of permanent exclusion and suspensions amounting to over 15 days in a term (cumulatively or singly), the decision of the Headteacher **must** be reviewed by a panel of governors. The panel may be constituted from members of the Local Advisory Board of the school and/or other schools in the Trust. Trustees might also be in attendance.

The panel will consider any representations made by the parent(s) / carer(s) of the student. If the student is aged 18 or over, they may represent themselves provided there is parental agreement. The panel has no power to increase the severity of suspensions. It can, however, uphold a suspension or permanent exclusion or direct the student's reinstatement, either immediately or by a particular date.

Except in extenuating circumstances, the panel quorum is three governors, with a clerk appointed by EMAT. One governor on the panel will be designated as the Chair of the meeting and, in the event of a request for external independent review by parents (see section below entitled *Independent Review Panel*), will represent the panel at that independent review meeting. The Headteacher cannot be a member of the panel.

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 EMAT Governance Team is advised of the exclusion **without delay** and the Headteacher makes arrangements for paperwork to be prepared immediately.

- Suspensions 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 relevant Management Information System. Governors must consider any representations made by parents, but it cannot direct reinstatement and is not required to arrange a meeting with parents.
- If an exclusion means that a pupil will **miss a public exam**, the panel should try to meet before the date of the exam. If this is not practicable, the Chair of Governors may use the emergency powers for Chair's action to review the exclusion alone.
- For suspensions of **6 to 15 school days**, if the parents make representations, governors must consider within 50 school days of receiving the notice of exclusion whether the excluded pupil should be reinstated. In the absence of any representations from the parents, governors are not required to meet and cannot direct the reinstatement of the pupil.
- For suspensions that singly or cumulatively total **more than 15 days** in one term, and for **permanent exclusions**, the panel must hold a formal hearing within 15 school days, whether or not the parent(s) make representations.

The review panel may direct reinstatement for any pupils suspended for more than five days **or** pupils who would miss a public exam **or** permanently excluded. 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 review panel must consider the representations made by the school and parent(s), and decide whether or not the exclusion was justified. The decision should then be included in the pupil's record.

After the governor review hearing, the clerk will inform 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 5 working days.

7. Principles of Natural Justice

- All factual determinations are based on a balance of probabilities, both by Headteachers and at any subsequent review. This means that the Headteacher/reviewing panel should accept that something happened if it is more likely that it happened than that it did not happen. In making their decisions to exclude, Headteachers must ensure that their decisions are fair, based on the facts of the incident and do not include any elements of discrimination.
- Members of the panel should be impartial, unprejudiced, have taken no previous part in the specific case, and have no personal or school interest in its result. Headteachers should not discuss individual exclusions with members of their Local Advisory Board as cases may be referred to the governors 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. Aggressive, repetitive or unnecessarily over-long presentations hinder the effectiveness of the review process and the Chair will retain discretion to curtail any such presentation.
- Parent(s) should be able to bring a friend or adviser with them. An effective meeting, however, will not be able to accommodate large groups of people and the Chair retains ultimate discretion as to the attendance of invited parties beyond a reasonable number.
- 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. Should such material be voluminous, the Chair has the discretion to adjourn the meeting to allow proper review.
- No party to the hearing should be in the presence of the panel unless the other party is also present. Every party should feel that they have had a full opportunity to present their case and have it duly considered.

8. Standard of Evidence for Panel Meetings

Guidance has been issued for Headteachers and governors to clarify the legal standards for review and the high quality of documentary evidence required for panel meetings. Headteachers and staff members delegated with responsibility for investigating breaches of behaviour policies should refer to this guidance. There should be no delays in gathering evidence and witness statements, both for reliability of recall and given the legal obligation to review exclusions within short statutory deadlines.

9. Independent Review Panel

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 such a review. They also have the right to request the attendance of a SEND expert at the Independent Review Panel meeting. Decision letters sent by EMAT to the parent(s) will include these details of the right of independent review. The parent(s) have 15 school days (from the date of receipt of the review panel's decision) to seek an independent review.

Within 15 school days of such a request, EMAT will engage the services of an external clerking agency to arrange and clerk the Independent Review Panel. The independent review is normally attended by the Headteacher, lead academy staff member on the case, and Chair of the original review panel. The clerk of the original panel may attend but plays no formal part in proceedings. Where the parent(s) 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 EMAT.

The Independent Review Panel cannot direct a governing body to re-instate a pupil. It may:

- a) uphold the exclusion;
- b) recommend that the original panel reconsider its decision; or
- c) quash the original panel's decision and direct the panel to reconsider its decision.

In the latter case, the Independent Review Panel will then be expected to order that the school must make a payment to the Local Authority of £4,000 if it does not offer to reinstate the pupil.

10. Parallel police proceedings

Police involvement and parallel criminal proceedings against a pupil may affect how the exclusion and its review process are conducted, although they must always remain lawful, reasonable, and procedurally fair. In such circumstances, the headteacher will need to take a decision on the evidence available to them at the time.

Governors have 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 request independent review in the normal way.

11. Review

This policy will be kept under review and updated as necessary

12. Further Information

Guidance	Link
Behaviour in Schools	Behaviour in Schools
Governance handbook and competency framework	Governance Handbook
Alternative Provision	Alternative Provision: Statutory guidance for local authorities, as well as headteachers and governing bodies of settings providing alternative provision Education for children with health needs who cannot attend school
Mental health in schools	Mental health and behaviour in schools
Children with Special Educational Needs and Disabilities	SEND Code of Practice: 0 to 25 years Children with special educational needs and disabilities (SEND): Overview
Departmental Advice on attendance	School attendance guidance
Departmental Advice on safeguarding and child protection	Keeping children safe in education Children Missing Education Working Together to Safeguard Children
Departmental Advice on Promoting the education of looked-after and previously looked-after children	Promoting the welfare of looked-after and previously looked-after children The designated teacher for looked-after and previously looked after children
Sharing and publishing information	School to school service: how to transfer information What academies, free schools and colleges should publish online