

## EXCLUSIONS POLICY

### Ely College

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<b>Applicable To:</b>	Ely College
<b>Committee:</b>	Academy Councillors
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## ELY COLLEGE EXCLUSION POLICY

**Scope and publication:** The policy sets out guidelines and circumstances under which a pupil may be excluded on a fixed term or permanent basis from Ely College and applies to all students at the College, including those who may be below or above compulsory academy age. The Policy is available on the Academy's website and can be made available in large print or other accessible format if required.

**Guidance and legislation:** This policy is drafted to be compliant with the Statutory Guidance '*Exclusion from maintained academies, academies and student referral units in England: A guide for those with legal responsibilities in relation to exclusion*' (DfE, September 2012). This Policy contains a summary of this guidance and is not intended to provide a full account of all of the guidance content. This policy also takes account of the Academy's public sector equality duty set out in section 149 of the Equality Act 2010.

**Pupil participation:** Excluded pupils will be enabled and encouraged to participate at all stages of the exclusion process, taking into account their age and understanding.

Consideration has been given to workload impact.

### Aims

The aims of this policy are:

- to support the Colleges Behaviour Policy;
- to assist the College in complying with legislation and guidance;
- to promote procedural fairness and natural justice in relation to exclusions; and
- to encourage and support co-operation between the College and parents/carers when a pupil is excluded from the College, either temporarily for a fixed term or permanently.

### The decision to exclude

A student may be excluded for one or more fixed periods or permanently. Only the Principal can exclude a pupil and this must be on disciplinary grounds.

The main categories of misconduct which might result in exclusion are:

- supply/possession/use of certain drugs and solvents or their paraphernalia or substances intended to resemble them, or alcohol or tobacco;
- theft, blackmail, physical violence, intimidation, racism or persistent bullying to students and staff;
- misconduct of a sexual nature, supply or possession of pornography;
- possession or use of unauthorised firearms, knives or other weapons;
- vandalism or computer hacking;
- other serious misconduct which affects the welfare of a member or members of the Academy Community (single or repeated episodes) on or off Academy premises or via social media.

**The behaviour of pupils outside academy:** can be considered as grounds for exclusion. This will be a matter of judgement for the Principal in accordance with the Academy's Behaviour Policy.

**Standard of proof:** 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'.

**Behaviour related to a protected characteristic:** The decision to exclude a pupil will be lawful, reasonable, fair and proportionate. We will not discriminate against students on the basis of protected characteristics, such as disability or race. The College will make reasonable adjustments for managing behaviour which is related to a pupil's disability. Where exclusion needs to be considered, the College will ensure that a disabled pupil is able to present his or her case fully where the disability might hinder this.

**Process:** The decision to exclude a pupil is not taken lightly and the Principal will:

- ensure that a thorough investigation has been carried out, usually by a member of the Leadership Team;
- consider all the evidence available to support the allegations;
- allow and encourage the student to give their version of events;
- keep a written record of the actions taken including the signed statements of witnesses. Any exclusion of a pupil, even for short periods of time, will be formally recorded; and
- be confident that the procedures detailed in this policy and the Statutory Guidance have been carried out.

**Notification to parents/carers:** If the Principal decides to exclude a pupil they will, without delay, notify parents/carers of the period of the exclusion and the reasons for it. The Principal will also, without delay, provide parents/carers with the following information in writing:

- the reasons for the exclusion;
- the period of a fixed period exclusion or, for a permanent exclusion, the fact that it is permanent;
- parents/carers' right to make representations about the exclusion to the Academy Council and how the pupil may be involved in this;
- how any representations should be made;
- that where there is a legal requirement for the Academy Council to consider the exclusion, that parents/carers have a right to attend a meeting, be represented at this meeting (at their own expense) and to bring a friend;
- where an excluded pupil is of compulsory academy age that for the first five academy days of an exclusion (or until the start date of any alternative provision where this is earlier) parents/carers are legally required to ensure that their child is not present in a public place during college hours without reasonable justification; and
- other required information under the Statutory Guidance.

**Notification to Local Authorities and Academy Council:** The Principal will inform the Academy Council and the relevant local authorities of all permanent exclusions; exclusions which would result in the student being excluded for more than five college days in any one term; and exclusions which would result in the pupil missing a public examination or national curriculum test, within one college day of the decision and will provide detailed exclusion reports. For all other exclusions the Principal will notify the local authority and Academy Council once a term.



**Sent home:** Once the decision has been made to exclude, a pupil will only be sent home once contact has been made with parents/carers and where it is clear that the student will be returning to a place of safety. Work will be provided and either sent with the pupil or arrangements made for collection.

**Public places:** During the first five days of any exclusion, the parents/carers of an excluded pupil must ensure that they are not present in a public place during normal academy hours without reasonable justification, whether with or without a parent/carer. Failure to comply with this is an offence for which a fixed penalty notice can be issued.

**Fixed-term exclusions:** A pupil may be excluded for one or more fixed periods, up to a maximum of 45 academy days in a single College year. A decision to exclude a student for a fixed term may be taken in response to breaches of the Colleges Behaviour Policy. A pupil may be subject to a fixed term exclusion and be required to stay at home whilst a complaint is being investigated or while an investigation is adjourned.

**Lunchtime exclusions:** Pupils whose behaviour at lunchtime is disruptive may be excluded from the academy premises for the duration of the lunchtime period. In such cases the requirements in relation to exclusion, such as the Principal's duty to notify parents/carers, still apply. Lunchtime exclusions are counted as half an academy day for statistical purposes and in determining whether an Academy Council meeting is triggered.

**Set work:** During a fixed term exclusion of 5 or fewer days, work will be set by the College for the pupil to complete at home. This work should be returned completed at the end of the exclusion for marking. Parents/carers should note that there may be a delay in providing work whilst teaching staff are given the opportunity to determine what work should be set. Alternatively, the pupil may be placed under a segregated regime on the College premises.

**Educational provision:** For a fixed period exclusion of more than five College days, the Academy Council will arrange suitable full-time education for any pupil of compulsory academy age. This provision will begin no later than the sixth day of the exclusion. Provision does not have to be arranged for pupil in the final year of compulsory education who do not have any further public examinations to sit.

**Reintegration:** Before the end of any fixed-term exclusion, parents/carers will be invited to attend a reintegration meeting at the Academy with their son/daughter. The purpose of the meeting is to ensure that the student understands the reason for the exclusion and is committed to preventing the behaviour that led to the exclusion from being repeated. The academy will consider all further support needed to help the student, including referral to external agencies if appropriate. The pupil will also spend a period of time in Isolation and on report to support their reintegration.

**Permanent exclusion:** Permanent exclusion is an extremely serious step to take and has a significant impact on the ability of a student to access education in the future. It is only used where it is unavoidable and where every possible appropriate alternative has been considered. Permanent exclusion will only be used as a last resort, in response to a serious breach, or persistent breaches, of the Colleges Behaviour Policy; and where allowing the student to remain in the College would seriously harm the education or welfare of the pupil or others in the academy.

The Principal will meet with the parents/carers and the pupil before reaching a decision to permanently exclude a student. Under normal circumstances, a pupil will be excluded for a fixed-term before the decision is made to permanently exclude.



**Educational provision:** for permanent exclusions, the local authority will arrange suitable full-time education for the pupil to begin no later than the sixth day of the exclusion.

### **Academy Council Consideration**

The Academy Council has responsibility for supporting the Principal in making decisions and reviewing them in relation to exclusions. In some circumstances the Academy Council will automatically consider the Principal's decision to exclude a pupil, and in other circumstances, a parent/carer may request the Academy Council to consider the Principal's decision to exclude.

**Automatic considerations:** the Academy Council will automatically consider the reinstatement of an excluded pupil, within 15 College days of receiving notice of the exclusion, if:

- the exclusion is permanent;
- it is a fixed period exclusion which would bring the pupil's total number of College days of exclusion to more than 15 in a term; or
- it would result in a pupil missing a public examination or national curriculum test (in which case the Academy Council will take reasonable steps to meet before the date of the examination and if this is not practical, the chair of academy councillors may consider pupil's reinstatement independently).

**Requests by parents/carers:** Parents/carers may, without delay, request in writing that the Academy Council consider an exclusion when the exclusion takes the pupil's total days of exclusion above five for the term. If requested to do so by the parents/carers, the Academy Council will consider the reinstatement of an excluded pupil within 50 academy days of receiving notice of the exclusion. In the case of a fixed period exclusion which does not bring the pupil's total number of days of exclusion to more than five in a term, the Academy Council must consider any representations made by parents/carers, but it cannot direct reinstatement and is not required to arrange a meeting with parents/carers.

**Procedure:** In considering an exclusion, the role of the Academy Council is to arrange and hold a meeting in accordance with the Statutory Guidance with at least three governors, the Principal and the parents/carers and then:

- uphold the exclusion; or
- direct the pupil's reinstatement immediately or on a particular date.

In reaching a decision on whether or not to reinstate a pupil, the Academy Council will consider whether the decision to exclude the student was lawful, reasonable and procedurally fair, taking account of the Principal's legal duties. When establishing the facts the Academy Council will apply the civil standard of proof, as defined above.

**Notification:** In accordance with the Statutory Guidance, the Academy Council will notify the parents/carers, the Principal and relevant local authorities, in writing without delay and no later than three academy days after the meeting:

- their decision;
- the reasons for their decision;
- where relevant, details of the Independent Review procedures and the date by which an application for a review must be made (15 academy days from the date of the Academy Council decision letter); and
- other information required within the Statutory Guidance, including the right to request a SEND expert at the Independent Review.



## Independent Review Panel

**Request for an Independent Review:** Parents/carers may request an independent review of the Academy Council's decision to uphold the decision to permanently exclude a pupil. The request for a review must be made to Clerk to the Academy Council setting out the grounds on which it is made in writing and within 15 academy days of the date of the Academy Council's decision letter or within 15 academy days of the final determination of a claim of discrimination under the Equality Act 2010 in relation to the exclusion. Any application after this time frame will be rejected.

**Responsibility for setting up the Independent Review:** Cambridge Meridian Academies Trust has delegated responsibility for setting up the independent review to the Academy Council of Ely College.

**Timing:** A Review Panel will meet to review the decision to exclude within 15 academy days after the day on which the request for the review was received. Parents/carers will be informed of the date and location of the hearing. The hearing may be adjourned if the panel consider that it would not be appropriate to proceed, for example where additional information is required.

**Composition of the Review Panel:** The Review Panel will consist of three or five appropriately trained independent members and will be appointed in accordance with the Statutory Guidance. A clerk to the panel will also be appointed who can provide independent advice to all of the parties and will circulate all written evidence to the parties at least five academy days before the hearing. Parents/carers should contact the clerk if they have any questions about this procedure.

**Role of the panel:** The Review Panel will rehear all of the facts of the case, including any fresh evidence. In reviewing the decision the panel will consider the interests and circumstances of the excluded pupil, including the circumstances in which the pupil was excluded, and have regard to the interests of other pupils and people working at the College. The panel will apply the civil standard of proof, as defined above. The Review Panel does not have the power to direct a Academy Council to reinstate an excluded pupil. The Review Panel may:

- uphold the decision to permanently exclude;
- quash the decision and direct that the Academy Council considers the exclusion again; or
- recommend that the Academy Council reconsider its decision.

**A direction to reconsider:** will be limited to circumstances where a panel decides that the College has acted illegally, irrationally or where there are significant flaws in procedure.

**Reconsideration:** Where the panel directs or recommends that the Academy Council reconsiders their decision, the Academy Council will reconvene to do so within 10 academy days of being given notice of the panel's decision. If the Academy Council does not subsequently offer to reinstate a pupil, an adjustment may be made to the Colleges budget in the sum of £4,000. The College, as an Academy, would be required to make an equivalent payment directly to the local authority. This payment will be in addition to any funding that would normally follow an excluded pupil.

**Decision and notification:** The panel's decision is binding on the student, the parents/carers, the Academy Council, the Principal, the Local Authority and the Academy Trust. All parties will be informed in writing, without delay and by the end of the second working day after the hearing of:

- the decision;
- the reasons for it; and



- any information which must be recorded on the pupil's educational record to reflect the decision.
- If the exclusion is upheld, the clerk will immediately inform the relevant local authorities.

**Complaint:** If parents/carers have a complaint about maladministration by the Review Panel, they should contact the Education Funding Agency (EFA).

This document sets out template letters, specifically drafted for academies. The letters have been drafted to comply with exclusion legislation and the Statutory Guidance *'Exclusion from maintained academies, academies and pupil referral units in England: A guide for those with legal responsibilities in relation to exclusion'* (DfE, September 2012), as well as Equality legislation. The letters are only templates and will require significant amendment to each particular case before use.

The information provided in the letters should be clear and easy to understand. Where the parents/carers' first language is not English, consideration should be given where practical to translating the letter or taking additional steps to ensure the details in the letters are communicated.

### **The Letter from the Principal**

The letter informing parents / carers of their child's exclusion must be sent without delay from the principal, in writing.

Note that if the exclusion is permanent, would result in the pupil being excluded for more than five academy days, or more than ten lunchtimes in a term, or means that the student will miss a public exam or national test, then the Principal must also notify the Academy Council and the Local Authority(s) of the exclusion and the reasons, without delay. For all other exclusions, the Principal must notify the Academy Council and Local Authority(s) once a term.

### **The letter from the Governors**

The Academy Council has responsibility for supporting the Principal in making decisions and reviewing them in relation to exclusions. In some circumstances the Academy Council will automatically consider the Principal's decision to exclude a pupil, and in other circumstances, a parent / carer may request the Academy Council to consider the Principal's decision to exclude:

In considering an exclusion, the role of the Academy Council is to arrange and hold a meeting (within 15 academy days of receiving notice of the exclusion for automatic consideration and within 50 academy days if requested to consider by parents/carers – and before a test/exam if the student has one due) in accordance with the Statutory Guidance with at least three academy councillors, the Principal and the parents/carers and then:

- uphold the exclusion
- direct the pupil's reinstatement on a particular date

In reaching a decision on whether or not to reinstate a student, the academy councillors will consider whether the decision to exclude the pupil was lawful, reasonable and procedurally fair, taking account of the Principal's legal duties. When establishing the facts the academy councillors will apply the civil standard of proof. Please refer to template Exclusion Policy and the Statutory Guidance for further details on procedure.



The Academy Council must notify their decision to the parents/carers, the Principal and relevant local authorities, in writing **without delay**. Ideally this should be no later than three academy days after the meeting.

### **Appendix A: Template Letter**

#### **Re: Named pupil – Number of days Fixed Term Exclusion**

I am writing to inform you of my decision to exclude **named pupil** for a fixed period of **number of days**. This means that he will not be allowed in College for this period. The exclusion begins on **date to date** inclusive.

I realise that this exclusion may well be upsetting for you and your family, but the decision to exclude Named pupil has not been taken lightly. Named pupil has been excluded for **enter reason of exclusion – must link to county guidelines and form**.

You have a duty to ensure that Named student is not present in a public place in academy hours during this exclusion unless there is reasonable justification for this. I must advise you that you may receive a penalty notice from the local authority if your child is present in a public place during academy hours on the specified dates. If so, it will be for you to show reasonable justification.

You have the right to make representations about this decision to the Academy Council. If you wish to make representations please contact, Clerk to the Academy Council, c/o Ely College via the PA to the Principal, as soon as possible. Whilst the Academy Council has no power to direct reinstatement, they must consider any representations you make and may place a copy of their findings on your child's College record

You should also be aware that if you think the exclusion relates to a disability your child has, and you think disability discrimination has occurred, you have the right to appeal, and/or make a claim, to the Special Educational Needs and Disability Tribunal (SENDIST). The address to which appeals should be sent is SENDIST, Mowden Hall, Staindrop Road, Darlington DL3 9DN.

You also have the right to see a copy of **named pupil's** college record. Due to confidentiality restrictions, you will need to notify me in writing if you wish to be supplied with a copy of Named student's academy record. I will be happy to supply you with a copy if you request it. There may be a charge for photocopying.

For more information you may wish to access a copy of the 2012 DfE Guidance on Exclusions at <http://www.education.gov.uk>.

You may also find it useful to contact the Children's Legal Centre on 0808 802 0008 or on <http://www.childrenslegalcentre.com>.

The Education Office in the Local Authority, who can provide advice on the exclusions process, is: Carol Way. She can be contacted on 01480-376302, or email to: [carol.way@cambridgeshire.gov.uk](mailto:carol.way@cambridgeshire.gov.uk)

**Named pupil's** exclusion expires on **end date of exclusion** and we expect **named pupil** to be back in College on **next College day and time** with yourself, for a re-integration meeting. Failure to attend a



re-integration meeting will be a factor taken into account by a magistrate's court, if on future application, they consider whether to impose a parenting order on you.

