



Learning that Connects

## EXCLUSIONS POLICY

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<b>Chair of Governors:</b>	David Smith
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## **Introduction**

Studio West is committed to recognition of the equal value of each student. We recognise that exclusions are damaging as they diminish the sense of belonging to the School community. As such exclusion is intended to be used only sparingly as part of an overall behaviour strategy which seeks to develop the culture of inclusion, ownership and responsibility for one's own behaviour. The School seeks to avoid permanent exclusions. These will take place only for very serious incidents or when all other strategies have been tried and have failed over time.

### **1. Action To Be Invoked By Staff In Serious Disciplinary Matters**

- i. Over serious matters an appropriate member of staff will interview students. The student will be questioned fairly and be given ample opportunity to give a response. The student will be encouraged to provide a written statement of what happened and offered the opportunity to sign this as an authoritative record of events. At this stage the report will help to enable Studio West to decide on what further action should be undertaken.
- ii. In discharging their duties the Principal and Governors of Studio West have regard to DfE Circular 10/99 and any subsequent DfE guidance on exclusions.
- iii. A decision to exclude a student will only be taken:
  - in response to serious breach of Studio West's Behaviour Policy;
  - if allowing the student to remain in Studio West would seriously harm the learning or welfare of the student or other students in the school; or
  - in cases where there has been a major breach of normal expectations of conduct or a breach of the criminal law.
- iv. Before excluding a student, in most cases a range of alternative strategies will have been tried.

### **2. Responsibilities Of The Principal**

- i. The Principal has the power to exclude students.
- ii. In considering excluding a student the Principal will ensure that:
  - a thorough investigation has been undertaken;
  - all the relevant facts and evidence to support the allegations have been considered and that the behaviour guidelines have been followed;
  - if the incident appeared to be provoked by racial or sexual harassment;
  - all students involved including those students with learning difficulties have the opportunity to give their version of events;
  - consultation with other people or relevant agencies involved except where they may be involved in any review of the exclusion has taken place; and
  - time has been given to addressing and supporting the student's individual needs/problems within the capabilities of Studio West.
- iii. Before deciding to exclude a student permanently the Principal will normally first try a range of strategies including fixed term exclusion. Normally only when other strategies have been tried without success will the Principal consider permanent exclusion.

- iv. There are occasions when the severity of the offence will merit permanent exclusion, even when there has been no record of poor behaviour.
- v. The Principal will aim for the shortest possible period of exclusion but however brief the following will be in place:
  - arrangements for the student to continue his or her education. Normally from the first day; and
  - preparation for the process of reintegration.
- vi. The Principal may exclude a student for up to 45 school days in any academic year. Any exclusion beyond 45 school days will be permanent. However before that point is reached the Principal will have held discussions with the relevant LA with a view to arranging an appropriate placement in another school or Student Referral Unit (PRU).

### **3. Informing Parents About The Exclusion**

- i. The Principal will make sure the Parent is notified immediately, ideally by telephone, and that the telephone call is followed by a letter within one school day. An exclusion will normally begin on the next school day.
- ii. Letters about fixed period and permanent exclusions will explain:
  - why the Principal decided to exclude the student;
  - the arrangements for enabling the student to continue his/her education;
  - the parent's right to state their case to the Governing Body's Discipline Committee;
  - who the parents should contact if they wish to state their case (usually the Clerk to the Committee);
  - the parent's right to see and have a copy of their child's record;
  - if the exclusion is for a fixed period, the length of the exclusion;
  - if the exclusion is permanent, the date the permanent exclusion takes effect, and details of any relevant previous warnings, fixed period exclusions or other disciplinary measures taken before the present incident; and
  - if the Principal wishes to extend a fixed period exclusion or, exceptionally, converts a fixed period exclusion into a permanent exclusion, the Principal will again write to the parent explaining the reasons and making the other points above. Where an exclusion is extended, there will be a new right for the parent to state their case to the Discipline Committee.

### **4. Informing The Discipline Committee**

The Principal will inform the Chairman of the Governing Body's Discipline Committee of:

- all permanent exclusions; and
- all exclusions which result, separately or in total, in the student missing more than five school days in any one term, or which deny a student the chance to take a public examination.

## **5. Responsibilities Of The Governing Body**

The Governors do not have the right to exclude a student. Governors will review the use of exclusion in Studio West regularly. The Governing Body will establish both a Discipline Committee and when the need arises and an independent Appeal Panel.

## **6. The Role Of The Discipline Committee**

- i. The Discipline Committee will consist of three governors who will review the use of exclusion within Studio West, including considering the views of the parents of an excluded student, and deciding whether or not to confirm exclusions of more than five school days or those where a student would miss an opportunity to take a public examination. The Clerk to the Governors will provide advice on the exclusions process and handle the administrative arrangements for considering exclusions.
- ii. If the exclusion is for five school days or fewer, the Discipline Committee will not direct reinstatement but will consider any statement from the parent. If the exclusion would cause the student to miss sitting a public examination the School will make alternative arrangements to allow an excluded student to take public examinations if possible.
- iii. For permanent exclusions the Discipline Committee will consider the exclusion and decide whether the student should be reinstated. Such consideration will take account of the student's disciplinary record and the likely impact of his or her continued attendance at Studio West as well as the severity of the offence.
- iv. On receiving notice from the Principal that a student has been excluded for more than five school days, the clerk should:
  - for an exclusion of between six school days and 15 school days in a term, set up a meeting between the 6th and the 50th school day to consider the exclusion;
  - for an exclusion of over 15 school days, set up a meeting between the 6th and 15th school day after that notice to consider the exclusion;
  - invite the parent to the meeting, at a time and place convenient to all parties as far as possible. The parent may be accompanied by a friend or a legal representative at their request;
  - ask for any written statements in advance of the meeting;
  - circulate any written statements, ensuring that the identity of students is concealed if thought appropriate, and a list of those who will be present at the hearing to all parties attending; and
  - unless there are strong reasons to refuse, the chair of the Discipline Committee should allow the excluded student to attend the meeting and present their case if the parent and the student ask for this. But the parent formally remains the appellant unless the student is 18 or over.
- v. If the student is back at school before the Discipline Committee meets, the meeting still enables the parent to give their views. The Discipline Committee can also consider whether more information should be added to the student's record.
- vi. If the student is still excluded when the meeting takes place, the Discipline Committee should decide whether to direct reinstatement. In reaching their decision the Committee should:
  - consider the parent's statements;

- have regard to the guidance on the appropriate use of exclusion in DfES Circular10/99 and in Studio West's Behaviour Policy, and consider whether the Principal has tried sufficient approaches to improve a student's behaviour before resorting to exclusion, and whether any further strategies might be an alternative to exclusion; and for permanent exclusion, the Discipline Committee should normally satisfy itself that all possible strategies to improve a student's behaviour were tried without success. Unless the incident was a major breach of normal expectations of conduct or a breach of the criminal law. Strategies should include those in DCSF guidance, including a Pastoral Support Programme. For children with statements of SEN, revising the statement might be better than resorting to exclusion.
- vii. The Discipline Committee may not attach conditions to the reinstatement of a student.
- viii. If the Discipline Committee upholds the Principal's decision to exclude a student permanently, it will write within one school day to the parent giving the reasons for the decision explaining the parent's right to appeal to an Independent Appeals Panel to which the parents can make oral and written statements, giving the name and address of the person the parents should contact if they wish to appeal, explaining that any notice of appeal should explain the grounds of appeal and stating the latest date for giving notice (15 school days from the date of the Discipline Committee's decision). The parent has the right to appeal to the panel even if they did not make a case to the Discipline Committee.
- ix. If the Discipline Committee upholds a decision to exclude a student permanently it will notify the Newcastle LA in writing of this decision within one school day of the hearing. The Discipline Committee's decision on fixed term exclusions is final. In the case of permanent exclusions, parents may appeal to an Independent Appeals Panel.
- x. After the meeting a note of the Discipline Committee's views on the exclusion should normally be placed on the student's record with a copy of the Principal's/Head of School's exclusion letter.

## **7. Appeal Hearings**

- i. Parents whose child is excluded permanently from Studio West, have the right to appeal against the Discipline Committee's decision to uphold the exclusion. This appeal is made to the Appeals Panel. The right of appeal is unrestricted, subject to the time limit.
- ii. Any appeal must be lodged in writing to the Clerk to the Appeals Panel within 15 school days from the date the parent receives notice of the decision. The panel should meet as soon as possible but normally within 15 days of the notification of appeal.
- iii. In the event of a permanent exclusion Newcastle LA will be notified promptly once the exclusion is confirmed.

## **8. Arranging An Appeal Hearing**

- i. The letter from the Clerk to the Discipline Committee will inform the parents of their right to appeal against the decision of the Discipline Committee not to reinstate the permanently excluded student. The letter will explain that the parent's notice of appeal must be in writing and set out the grounds of appeal. The letter will tell the parents that the final date for lodging an appeal will be 15 school days from the date the parent receives notice.
- ii. The day on which the parent is given notice will be taken to be the second school day after the date of posting by first class post. No appeal will be accepted if it is made after the final date for lodging an appeal.
- iii. The Independent Appeals Panel will comprise three independent panel members plus a clerk.
- iv. No governor, employee of Studio West Trust or person who has had any connection with Studio West Trust or with the excluded student or with the incident leading to the exclusion, shall serve on the Appeal Panel. The members of the Panel will be people with experience in education in the area; at least one must be a lay member.
- v. The Appeals Panel will not reinstate students purely on minor 'technicalities' relating to prior procedure, where they are persuaded on the merits of the case that the exclusion was justified and would not otherwise direct that the student should be reinstated. The Appeals Panel will rather consider afresh the question of whether the student should be reinstated.
- vi. The Appeals Panel will meet within 15 school days of the date the parent lodges notice of appeal.
- vii. Those entitled to attend a hearing and present their case are:
  - the parent, who may be represented by a legal or other representative;
  - the Principal, who may make oral representations;
  - the chair or a nominated member of the Discipline Committee, who may make oral representations; and
  - a legal or other representative of the Discipline Committee.
- viii. The Principal and Governing Body may also make written representations. Wherever possible, the Clerk will make available all written evidence to the panel members and the parent four working days in advance of the hearing. The student, if s/he or his/her parents so request, will be allowed to attend the hearing and speak on his/her own behalf, unless there is good reason to refuse.

## **9. Role Of The Clerk**

- i. The Appeals Panel will have a clerk who will serve as an independent source of advice on procedure for all parties to the appeal. The Governing Body will use its best endeavours to ensure that the clerk has some legal training and has experience in the conduct of appeal hearings. They will not be the same person who served as a clerk to the prior Discipline Committee hearing.
- ii. When the panel withdraws, or invites the parties to do so, when it wishes to consider its decision, the clerk may remain with the panel, but only for the purpose of offering advice on procedure or law, and recording decisions and reasons.

## **10. Procedure At The Hearing**

- i. The appeal hearing will not be held at Studio West. The Appeals Panel will do everything possible to establish an atmosphere of informality where the parties can present their cases effectively.
- ii. The remit of the Appeals Panel is to consider whether the student should be reinstated.
- iii. In considering an appeal, the panel will decide whether the student actually did what he/she is accused of doing. If more than one incident of misconduct is alleged, the panel will decide on each incident. If satisfied on the balance of probabilities that the student did what was alleged to have been done, and then the panel will decide whether, considering all relevant factors, permanent exclusion was a reasonable response to that conduct. Relevant factors must include:
  - the broader interests of other students and staff in Studio West, as well as those of the excluded student;
  - Studio West's behaviour policy; and
  - where other students were involved in the same incident and were also disciplined, the fairness of the permanent exclusion in relation to the sanctions imposed on the other students involved.
- iv. To reach a decision, the panel may need to hear evidence from those directly or indirectly involved, including the student. The Appeals Panel may not introduce new reasons for the exclusion. However, the parent may put forward new information that may not previously have been available. If this happens, the Appeals Panel should be given an opportunity to respond.
- v. The order of hearing will be notified in advance to the parties. At the start of the hearing the chair or clerk will welcome the parties and introduce those present, pointing out that the panel is independent of Studio West, and its governing body and that its decision is binding on them. The clerk will explain the order in which the parties entitled to be heard will state their case and that there will be an opportunity for questioning by the other parties afterwards.
- vi. The panel members may also ask questions of the other parties to the appeal or of any witnesses who appear, in order to clarify an issue or to elicit more information. The aim will be for panel members to ask their questions at the end of each party's statement and following questions by the other parties.
- vii. The clerk may be called on to give legal or procedural advice to the Appeals Panel during the course of the hearing and when they retire to consider their decision.
- viii. The chair will order proceedings and lead the panel in establishing the relevant facts. If the parent appears to be having difficulty in presenting their case, the chair should intervene to assist them to ensure that their case is established and that factual matters not in dispute are clearly identified. The chair will assist parents who have English as an additional language or who have literacy problems, and who may not have understood all the paperwork.
- ix. If the Appeals Panel wishes to vary the notified procedure, they should only do so after hearing the views of all the parties present and entitled to make representations.

- x. Sufficient time will be allowed for each party to put its case. The panel should ensure that parents are given the opportunity to comment on relevant information obtained from the Governing Body. Care must be taken to ensure that no party attending the hearing is present alone with the Appeals Panel in the absence of the others.
- xi. In exceptional cases the panel may adjourn an appeal to a later date. If there is an adjournment, it is essential that no part of the proceedings take place other than in the presence of all the panel members.

## **11. Evidence And Witnesses**

- i. Where the school's case rests largely or solely on physical evidence, and where the facts are in dispute, then the physical evidence, if practicable, should be retained and be available to the panel, if they wish to see it. Where there are difficulties in retaining physical evidence, photographs or signed witness statements are acceptable as evidence.
- ii. The Appeals Panel cannot compel witnesses to attend and any witnesses must therefore appear before it voluntarily. The Appeals Panel may wish to call witnesses who saw the incident or behaviour which gave rise to the exclusion. They may also wish to call a teacher or teachers (other than the Principal who investigated the incident and interviewed students. The Principal has the right to make written representations to the panel and to appear and make oral representations.
- iii. Where adult witnesses are unwilling to appear in person or are unavailable, the panel must rely on their written statements, copies of which will have been circulated to all parties by the clerk before the hearing. In the case of witnesses who are students of Studio West, it will generally be appropriate for the panel to rely on their written statements. Students may, however appear as witnesses in person if they do so voluntarily and their parents' consent. All written witness statements must be attributed and signed, except in cases where the school has good reason to wish to protect the anonymity of students. In such cases the statement will not be attributed and some names may be blanked out. The general principle remains that someone accused of something is entitled to know the substance and the source of the accusation. If any witnesses are going to appear in person, all parties need to know the details in advance of the day of the hearing.
- iv. The calling of character witnesses is at the discretion of the panel, but should be allowed unless there is good reason to refuse. It is for the panel to decide whether any witnesses, having given evidence, should remain for the remainder of the presentation of the case.
- v. If any of the parties intend to raise matters or produce documents at the hearing which are not covered by the statement of decision or the notice of appeal, these should be submitted to the clerk to the Appeals Panel in good time before the hearing. If substantial new issues are raised for the first time at the hearing, an adjournment, maybe necessary to allow all parties to consider the issues.
- vi. An Appeals Panel, when directing reinstatement, may specify a future date rather than an immediate return, perhaps to allow for support arrangements to be put in

place. But the date of reinstatement should be reasonable in all the circumstances. The Appeals Panel cannot attach conditions to the reinstatement of a student.

- vii. Under no circumstances can an appeal continue if the number of panel members drops below three at any stage during the appeal. Once an appeal has begun, no panel member may be substituted by a new member for any reason. In the case of a five member panel, if any member dies or is taken ill, the panel may continue, provided the two categories of member are still represented on the panel.

## **12. Record Of The Proceedings Of An Appeals Panel**

In addition to notes taken during appeals to help the panel's decision making process (including a record of the Discipline Committee's decision and the reasons for it) the clerk to an Appeals Panel should keep brief notes of the proceedings, the attendance, the voting and the decision in such forms as the Appeals Panel deems appropriate.

## **13. After The Hearing**

- i. The decision of the Appeals Panel is binding on all parties. The Appeals Panel will communicate its decision to all parties by the end of the second school day after the appeal hearing. Where a hearing is held on the last day of term or outside term time, the panel will notify all parties by the end of the second working day after the conclusion of the hearing.
- ii. If the Appeals Panel upholds the permanent exclusion, the clerk should immediately report this to Newcastle LA. The clerk should also advise the parent to contact the Newcastle LA about arrangements for their child's continued education. The Principal should remove the student's name from the roll of Studio West the day after the conclusion of the exclusion appeal. Where the Appeals Panel direct reinstatement they should immediately inform the Principal of their decision and specify the date on which the student must be readmitted.
- iii. Details of an exclusion may not be deleted from the student record, where an exclusion is a matter of fact. The Governing Body must, however comply with any parental request to append their appeal statement to the student's record. It will be for the Governing Body to decide what details of the exclusion are included in the student's school record Copies of the Principal's correspondence should be included and possibly the minutes of the Discipline Committee and Appeals Panel hearings, if the Discipline Committee and Appeals Panel respectively agree to this.
- iv. The School will ensure that there is a written record of the sanctions given under this policy and that patterns of exclusion are investigated regularly, with reports produced for the Governing Body.