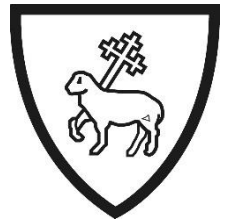


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# Brockington College Suspension and Permanent Exclusion Policy

## 1. Introduction

- 1.1 Brockington College, a Church of England Academy, has at its heart a distinctive Christian ethos. Based on our Christian foundation and values we seek to promote a culture of developing every person and therefore every school policy is written from this perspective, with a commitment to learning and maturing in the context of communal and individual development.
- 1.2 We lay particular stress on the Christian values of compassion, forgiveness, justice, koinonia, learning, perseverance, respect and wisdom for individuals and across the school community.

## 2. Rationale

- 2.1 This policy is underpinned by the commitment of all at Brockington College to ensure the safety and well-being of the whole school community and to maintain an appropriate educational environment in which all can learn and achieve. In this policy and the accompanying procedures, the governing board aims to discharge appropriately its statutory duties as set out in The School Discipline (Pupil Exclusion and Reviews) (England) Regulations 2012.

## 3. Aims

- 3.1 Our school aims to ensure that:
- the suspension/permanent exclusion process is applied fairly and consistently
  - the suspension/permanent exclusion process is understood by governors, staff, parents/carers and students
  - students in school are safe and happy
  - students do not become NEET (not in education, employment or training).

## 4. Legislation and statutory guidance

- 4.1 The term 'suspension' is a reference to what is described in the legislation as an exclusion for a fixed period.
- 4.2 For the purposes of exclusions, 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.
- 4.3 This policy is based on statutory guidance from the Department for Education: [Suspension and permanent exclusion from maintained schools, academies and pupil referral units in England, including pupil movement](#).
- 4.4 It is based on the following legislation, which outline schools' powers to suspend/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](#)
  - Sections 64-68 of the [School Standards and Framework Act 1998](#)
- 4.5 In addition, the policy is based on:
- Part 7, chapter 2 of the [Education and Inspections Act 2006](#), which looks at parental responsibility for suspended/permanently 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](#)

4.6 Brockington College is a school within Embrace Multi Academy Trust. This policy complies with the trust's funding agreement and articles of association.

## 5. Overview

5.1 Suspension/permanent exclusion is an extreme sanction and is only used by the principal (or, in the absence of the principal, the vice principal who is acting in that role). Before deciding whether to suspend or permanently exclude a student the principal will ensure that:

- appropriate investigations have been carried out
- all the facts and evidence available have been considered
- the student's version of events has been heard
- Consider if the pupil has special educational needs (SEN)
- statutory guidance on suspensions and permanent exclusions, equalities policy and disability discrimination has been taken into account.

5.2 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."

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

5.4 Having considered these matters, the principal will make a decision on suspension/permanent exclusion based on the balance of probabilities established. In reaching a decision, the principal will look at each case on its own merits and avoid a tariff system, ie fixing a standard penalty for a particular action, as unfair and inappropriate.

5.5 Suspension/permanent exclusion will be considered in cases of (but not limited to):

- persistent disruptive behaviour
- persistent attitudes or behaviour which are inconsistent with the ethos of the college
- extreme defiance/ abusive behaviour towards staff
- extreme rudeness
- theft, blackmail, physical violence, threatening behaviour, drug abuse, alcohol abuse, smoking, intimidation, racism, bullying, including cyber bullying
- misconduct of a sexual nature, including sexting; supply and possession of pornography or indecent images
- inappropriate use of social media and/or technology, including serious cases of bullying
- damage to property (eg vandalism or graffiti)
- use of discriminatory language
- cheating, including plagiarism
- sexual harassment
- peer on peer abuse
- sexist, racist or homophobic abuse
- possession or use of weapons
- supply, possession or use of certain drugs and solvents or their paraphernalia or substances intended to resemble them
- behaviour which endangers the safety of others such as arson
- malicious accusations against school staff
- other serious misconduct toward a member of the school community, or actions which bring the school into disrepute (single or repeated episodes), on or off the school premises.

5.6 This is not an exhaustive list and there may be other situations where the principal makes the judgment that suspension/permanent exclusion is an appropriate sanction.

## **6. Suspension**

- 6.1 A student may be suspended for one or more fixed periods, up to a maximum of 45 days in a school year.
- 6.2 The school will make every effort to inform parents/carers of a suspension without delay and before the end of the day in person or by telephone, or if this would delay notification, by email.
- 6.3 This will be followed in all cases by a letter sent without delay, which will inform parents/carers of the length of the suspension, the reason(s) for the suspension, their right to make representations about the suspension, who to contact if they wish to make representations about the suspension and, where there is a legal requirement for the governing board to consider the suspension, their right to attend a meeting.
- 6.4 When a student is required to be at home, parents/carers will be advised that the student is not allowed on the school premises, and that daytime supervision is their responsibility, as parents/carers.
- 6.5 The school will continue to provide education for all suspended students and will mark the work that is completed and returned to school.
- 6.6 The letter will also make clear the date and time when the student should return to school and attend a reintegration meeting.
- 6.7 The school will plan the return and reintegration of students into school after a suspension with parents/carers and the student.
- 6.8 The principal will inform the governors and local authority without delay of any suspension totalling more than five school days per term.
- 6.9 The principal will inform the governors and local authority without delay of any suspensions or permanent exclusion resulting in a student missing a public examination.
- 6.10 The principal will inform the governors and local authority on a termly basis of all suspensions.
- 6.11 The school will provide full time education from the sixth day of any period of suspension of six days or longer.
- 6.12 In the case of one or more suspension(s) totalling more than 15 school days in any one term, or where a student would miss a public examination, a governors' disciplinary panel meeting will be convened.

## **7. Permanent exclusion**

- 7.1 The decision to exclude a student permanently will only be taken as a last resort by the principal in the following circumstances:
- in response to a serious breach, or persistent breaches, of the school's Behaviour for Learning Policy and
  - where allowing the student to remain in school would seriously harm the education or welfare of the student or others, such as staff or students, in the school.
- 7.2 In the case of a permanent exclusion, the same process for suspensions in points 6.2 – 6.5 will be followed, except the communication will make clear that it is a permanent exclusion.

- 7.3 The relevant local authority will provide full time education from the sixth day of permanent exclusion.
- 7.4 The principal will inform the governors and local authority without delay of any permanent exclusion.
- 7.5 In the case of a permanent exclusion, a governors' disciplinary panel meeting will be convened.

## **8. Equality Act 2010**

- 8.1 The school will follow the guidance on the Equality Act 2010 published by the 'Equality and Human Rights Commission' in Section 5.4 entitled 'What equality law means for you as an educational provider'.
- 8.2 This guidance states that whilst a *"school must not discriminate against a pupil by excluding them from school"*, *"it does not mean a school cannot exclude a pupil with a protected characteristic"*. The guidance recognises that *"there may be occasions when it is appropriate to exclude a pupil with a protected characteristic"*, it stresses it is important that a school does not exclude *"because of the protected characteristic"*.

## **9. Alternatives to permanent exclusion**

- 9.1 Brockington College works closely with the South Leicestershire Inclusion Partnership (SLIP) as part of the intervention work the college undertakes when working with students at risk of permanent exclusion. In cases where permanent exclusion is appropriate, the college may involve the SLIP and make a Tier 4 referral, where the student remains on roll at the school, but all provision is provided by the SLIP. The threat of a permanent exclusion will not be used as the means to persuade parents/carers to move their child to another school.

## **10. Lunchtime suspension**

- 10.1 Students whose behaviour at lunchtime is disruptive may be suspended from the school premises for the duration of the lunchtime period. This will count as a half-day suspension when determining whether a governing board meeting is required. Parents will be notified of the suspension as outlined in section 6.

## **11. Behaviour outside school**

- 11.1 Students' behaviour outside school on school 'business', for example educational visits and journeys, away school sports fixtures or a work experience placement is subject to the school's Behaviour for Learning Policy. Inappropriate behaviour in these circumstances will be dealt with as if it had taken place in school. If students' behaviour in the immediate vicinity of the school or on a journey to and from school is inappropriate and meets the school criteria for suspension/permanent exclusion, then the principal may decide to suspend/permanently exclude. Additionally, if a student's behaviour is felt to bring the school into disrepute during school hours or at any point outside school hours, then the principal has the right to consider the use of suspension/permanent exclusion from school.

## **12. Roles and responsibilities**

### **12.1 The principal**

- 12.1.1 Informing parents/carers (and the social worker / virtual school head if applicable)  
The principal will ensure that parents are notified of their child's suspension/permanent exclusion without delay and by the end of the day that the decision to suspend/permanently exclude is made and the reason(s) for it. Parents will be made aware of the days on which they must ensure their child is not present in a public place at any time during school hours without a good reason and that they may be given a fixed penalty notice or prosecuted if they fail to do this. If issued during

the school day, parental confirmation will be sought as to whether it will be appropriate for the student to make their own way home or be collected.

- 12.1.2 The principal will provide the following information in writing and without delay to the parents of a suspended/permanently excluded student:
- the reason(s) for the suspension/permanent exclusion
  - the length of a suspension or, for a permanent exclusion, the fact that it is permanent
  - information about parents' right to make representations about the suspension/permanent exclusion to the governing board and how the student may be involved in this
  - how any representations should be made
  - where there is a legal requirement for the governing board to meet to consider the suspension/permanent exclusion, that parents have a right to attend a meeting, be represented at a meeting (at their own expense) and to bring a friend.
- 12.1.3 If alternative provision is being arranged, the following information will be included when notifying parents/carers of a suspension/permanent exclusion:
- 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 student to identify the person they should report to on the first day.
- 12.1.4 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 an suspension, in which case the information can be provided with less than 48 hours' notice with parents' consent.
- 12.1.5 Informing the governing board and local authority  
The principal will notify the governing board and the local authority (LA) without delay of:
- any permanent exclusion, including where a suspension is followed by a decision to permanently exclude the student
  - any suspension which would result in the student being suspended for more than five school days (or more than 10 lunchtimes) in a term
  - any suspension or permanent exclusion which would result in the student missing a public examination.
- 12.1.6 For a permanent exclusion, if the student lives outside the local authority area in which the school is located, the principal will ensure the student's 'home authority' is notified of the exclusion and the reason(s) for it without delay.
- 12.1.7 The principal will notify the governing board once a term of any other suspensions of which they have not previously been notified.
- 12.1.8 The principal will notify the local authority without delay of all school suspensions and permanent exclusions.

## **12.2 The governing board**

- 12.2.1 Responsibilities regarding suspension/permanent exclusions are delegated to a governors' disciplinary panel, usually comprising three governors.
- 12.2.2 The governing board has a duty to consider parents' representations and the reinstatement of a suspended/permanently excluded student (see section 13).
- 12.2.3 The governing board will provide the secretary of state with information about any suspensions/permanent exclusions in the last 12 months, within 14 days of receipt of a request.

12.2.4 For a suspension of more than five school days, the governing board will arrange suitable full-time education for the student. This provision will begin no later than the sixth day of the exclusion.

12.2.5 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.

### 12.3 The local authority

12.3.1 For permanent exclusions, the local authority is responsible for arranging suitable full-time education to begin no later than the sixth day of the exclusion.

## 13. Considering the reinstatement of a student

13.1 **Suspensions totalling no more than five days in a term:** the governing board must consider any representations made by parents, but it cannot direct reinstatement and is not required to arrange a meeting with parents.

13.2 **Suspensions totalling more than five days, but less than 16 in a term:** a governors' disciplinary panel meeting will be arranged to consider reinstatement within 50 school days of receiving notice of the exclusion, if requested by parents.

13.3 **Suspensions totalling more than 16 days in a term AND permanent exclusions:** a governors' disciplinary panel will be arranged to consider the reinstatement of an excluded student within 15 school days of receiving notice of the exclusion.

13.4 **Suspensions AND permanent exclusions that would result in a student missing a public examination:** a governors' disciplinary panel meeting will be arranged to consider the reinstatement of a suspended or permanently excluded student within 15 school days of receiving notice of the exclusion and before the date of the child's examination, if reasonably practical to do so. If not reasonably practical, the reinstatement will be considered by a smaller governors' disciplinary panel.

13.5 The governors' disciplinary panel can either:

- decline to reinstate the student, or
- direct the reinstatement of the student immediately, or on a particular date.

13.6 In reaching a decision on whether a student should be reinstated, the governors' disciplinary panel will consider whether the decision to suspend or permanently exclude was lawful, reasonable and procedurally fair and whether the principal followed their legal duties. When establishing the facts, the panel will apply the civil standard of proof, ie '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'.

13.7 Minutes will be taken of the meeting as a record of the evidence that was considered by the panel and made available to all parties on request. The outcome will also be recorded on the student's educational record.

13.8 The governors' disciplinary panel will notify, in writing, the principal, parents and the local authority of its decision, along with reasons for its decision, without delay.

13.9 In the case of a permanent exclusion, the governors' disciplinary panel'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 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 permanent 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 six months of the date on which the discrimination is alleged to have taken place.

## **14. An independent review**

- 14.1 If parents apply for an independent review, the trust will arrange for an independent panel to review the decision of the governing board not to reinstate a permanently excluded student.
- 14.2 Applications for an independent review must be made within 15 school days of notice being given to the parents by the governing board of its decision to not reinstate a student.
- 14.3 A panel of three or five members will be constituted with representatives from each of the categories below:
- 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
  - current or former school governors who have served as a governor for at least 12 consecutive months in the last five years, provided they have not been teachers or headteachers during this time
  - headteachers or individuals who have been a headteacher within the last five years.
- 14.4 Where a five-member panel is constituted, two members will come from the school governors' category and two members will come from the headteacher category.
- 14.5 A person may not serve as a member of a review panel if they:
- are a director of the academy trust of the school
  - are the principal of the excluding school who has permanently excluded the student or anyone who has held this position in the last five years
  - are an employee of the academy trust, or the governing board, of the excluding school that has permanently excluded the student (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 board, parents or student, or the incident leading to the permanent exclusion, which might reasonably be taken to raise doubts about their impartiality
  - have not had the required training within the last two years.
- 14.6 The trust must ensure that all members of an independent review panel and clerks have received training within the two 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.

- 14.7 A clerk will be appointed to the panel.
- 14.8 Following its review, the independent panel will decide one of the following:
- to uphold the governing board's decision not to reinstate
  - to recommend that the governing board reconsiders reinstatement
  - to quash the governing board's decision and direct that the governing board reconsiders reinstatement.
- 14.9 The panel's decision does not have to be unanimous and can be decided by a majority vote. In the case of a tied decision, the chair has the casting vote.

## **15. School registers**

- 15.1 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 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.
- 15.2 Where an application for an independent review has been made within 15 school days, the school will wait until the review has concluded before removing a student's name from the register.
- 15.3 Where alternative provision has been made for an excluded student and they attend it, an appropriate attendance code, such as code B (education off-site) or code D (dual registered) will be used on the attendance register.
- 15.4 Where excluded students are not attending alternative provision, they will be marked absent using code E.

## **16. Returning from a suspension**

- 16.1 Following a suspension, a reintegration meeting will be held involving the student, parents, a member of senior staff and other staff, where appropriate.
- 16.2 The following measures are examples of what may be implemented when a student returns from a suspension:
- agreeing a behaviour contract
  - putting a student 'on report'
  - internal isolation.

## **17. Monitoring arrangements**

- 17.1 The assistant principal with responsibility for behaviour monitors the number of exclusions every term and reports back to the principal.
- 17.2 This policy will be reviewed by the principal every two years. At every review, the policy will be shared with the governing board.

## **18. Links with other policies**

- 18.1 This exclusions policy is linked to the school:
- Behaviour for Learning Policy
  - SEND Policy and Information Report.