

NYC Guidance: Suspension and Permanent Exclusion from maintained schools, academies and pupil referral units in England, including pupil movement. Guidance for maintained schools, academies, and pupil referral units in England, September 2022.

Introduction

The DfE has completely revised its guidance on exclusions and the statutory requirements to which headteachers, governing boards and academy trusts with responsibility for maintained schools, pupil referral units, academy schools (including free schools, special schools and university technology colleges) and alternative provision must have regard when suspending or excluding a child or young person.

You can access the guidance [here](#).

Key Principles

This Local Authority recognises that headteachers may wish to use suspension and permanent exclusion as a sanction when warranted as part of creating a calm, safe, and supportive environment in which pupils can learn and thrive. A suspension may be used to provide a clear signal of what is unacceptable behaviour as part of the school's behaviour policy and show a pupil that their current behaviour is putting them at risk of permanent exclusion. However, where suspensions are becoming a regular occurrence for a pupil, headteachers and schools should consider whether suspension alone is an effective sanction for the pupil and whether additional strategies need to be put in place to address behaviour.

The decision of the headteacher to exclude must be lawful; reasonable; fair; and proportionate. Suspending a pupil for a short period of time, such as half a day, is permissible, however, the formal suspension process must be followed. Any exclusion of a pupil, even for short periods, must be formally recorded. An informal or unofficial exclusion, such as sending a pupil home 'to cool off', is unlawful when it does not follow the formal school exclusion process and regardless of whether it occurs with the agreement of parents.

The decision to exclude a pupil permanently should only be taken as a last resort:

- in response to a serious breach or persistent breaches of the school's behaviour policy; **and**
- where allowing the pupil to remain in school would seriously harm the education or welfare of the pupil or others such as staff or pupils in the school.

Only the headteacher can suspend or exclude a pupil and this must be on disciplinary grounds. The headteacher must also take account of their legal duty of care when sending a pupil home following suspension or exclusion.

Preventative Approaches

Where persistent patterns of behaviour lead to repeated suspensions or the potential risk of permanent exclusion, the Local Authority expects schools to work collaboratively, discussing the pupil's needs with the Locality SEND Hub and Inclusion Panel. Schools should focus on exploring a range of solutions to address the needs of a pupil who may be manifesting behaviour that challenges, for example through risk assessment and individual provision mapping in order to develop school-based strategies and interventions. As part of a graduated response, schools should make use of the Ladder of Intervention and draw support from other professionals where necessary, e.g. Early Help Consultants, Children and Families Workers and SEMH Specialists. **Schools should make contact with the Local Authority as soon as any permanent exclusion seems imminent in order to discuss the specifics of the individual case and to explore alternative options.**

Vulnerable pupils

Suspension and exclusion should always be regarded as last resort. This is especially pertinent to particular groups of children who are more likely to be suspended or permanently excluded from school, such as looked after children or those with a disability or special educational need. Where a pupil from a vulnerable group is at risk of suspension or exclusion, it is important that the school contacts the Virtual School Headteacher, Social Worker or SEND Team (as appropriate) and takes particular care to examine the statutory guidance and adhere to all duties under the Equality Act (2010). Schools should also be mindful of any emerging patterns or trends for pupils from specific vulnerable groups or with other protected characteristics and ensure policies and practice are not inadvertently discriminatory.

Procedural Fairness

The Local Authority expects schools to pay due regard to the procedural requirements and timescales outlined within the DfE guidance and summarised in the additional tables and checklists produced by NYC.

Civil Standard of Proof

When establishing the facts in relation to a suspension or permanent exclusion decision the headteacher must 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.' Headteachers should take the pupil's views into account, considering these in light of their age and understanding, before deciding to exclude. Schools should carry out a thorough investigation and take witness statements from both adults and, where relevant, other pupils involved or present.

Reasonable and Proportionate

Schools should ensure that any suspension or exclusion is reasonable and proportionate. The Local Authority can support Headteachers by providing examples of how other schools have responded to similar incidents or behaviours. Headteachers should also consider any causal or mitigating factors when deciding to suspend/exclude a young person.

Involving Pupils, Parents and Carers

Schools should engage proactively with parents/carers to support pupils who have been suspended or excluded. Schools must inform parents/carers about the process – so that they know when and how to challenge the decision – and signpost them to information and sources of help so they can access additional support (such as SENDIASS officers) to assist them through the process, including their right to progress to an Independent Review Panel.

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