CLAYGATE PRIMARY SCHOOL

Suspension and Exclusion Policy

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A. Flowchart for reviewing the headteacher's suspension or exclusion decision

Statement of intent

At CPS, we understand that good behaviour and discipline are essential for promoting a high-quality education.

Amongst other disciplinary sanctions, CPS recognises that suspension and permanent exclusion of pupils may be necessary where there has been a serious breach, or persistent breaches, of the school's Behaviour Policy. Suspension or permanent exclusion may also be necessary where allowing a pupil to remain in school would seriously harm the education or welfare of the pupil or others in the school. Suspension and permanent exclusion should be used only where appropriate and proportionate, with permanent exclusion being a measure of last resort.

CPS has created this policy to clearly define the legal responsibilities of the headteacher, governing board and LA when responding to pupil suspensions and permanent exclusions, to ensure that they are dealt with fairly, lawfully and in accordance with DfE statutory guidance. This policy also aims to secure a pupil's right to education despite suspension or permanent exclusion by ensuring that appropriate arrangements are made.

A **"suspension"** is the temporary removal of a pupil from the school for disciplinary reasons. A pupil may be suspended for one or more fixed periods, subject to a maximum of 45 school days in any one academic year. A suspension does not have to be for a continuous period.

A **"permanent exclusion"** is the permanent removal of a pupil from the school. Permanent exclusion may only be used 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 in the school.

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1. Legal framework

This policy has due regard to all relevant legislation, including, but not limited to:

- Education Act 1996
- Education Act 2002
- Education and Inspections Act 2006
- Children and Families Act 2014
- Equality Act 2010
- Human Rights Act 1998
- Education (Provision of Full-Time Education for Excluded Pupils) (England) Regulations 2007
- School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012, as amended

- School Discipline (Pupil Exclusions and Reviews) (England) (Amendment and Transitional Provision) Regulations 2023
- School Attendance (Pupil Registration) (England) Regulations 2024
- Education (Educational Provision for Improving Behaviour) Regulations 2010, as amended
- Education (Educational Provision for Improving Behaviour) (Application to Academies and Pupil Referral Units and Minor Amendments) Regulations 2026, where applicable.

This policy also has due regard to relevant statutory and non-statutory guidance, including:

- DfE, *Suspension and Permanent Exclusion from maintained schools, academies and pupil referral units in England, including pupil movement*
- DfE, *Behaviour in Schools*
- DfE, *Special educational needs and disability code of practice: 0 to 25 years*
- DfE, *Mental health and behaviour in schools*
- DfE, *Keeping Children Safe in Education*
- DfE, *Working Together to Safeguard Children*.

This policy operates in conjunction with the following school policies:

- Behaviour Policy
- Anti-Bullying Policy
- Pupil Code of Conduct
- Special Educational Needs and Disabilities (SEND) Policy
- Child Protection and Safeguarding Policy
- Attendance Policy
- Complaints Policy and Procedure.

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2. Roles and responsibilities

The Local Authroity is responsible for:

- Having due regard to relevant statutory guidance when carrying out its duties in relation to the education of looked-after children (LAC).
- Arranging suitable full-time education for any pupil of compulsory school age who is permanently excluded, from the sixth school day following the exclusion.

- Working with the school and relevant professionals where a pupil with an EHC plan is permanently excluded, including reviewing or reassessing the pupil's needs where appropriate and considering whether a new placement is required.
- Arranging an independent review panel (IRP) hearing where required following a governing board decision not to reinstate a permanently excluded pupil.
- Making arrangements for the IRP to be held via remote access where a parent or excluded pupil aged 18 or over requests this and the statutory conditions are met.
- Arranging the IRP without delay and within the statutory timescales.
- Ensuring that the IRP consists of three or five members, as required by law.
- Ensuring that panel members and the clerk, where appointed, have received the required training within the statutory timeframe.
- Appointing a SEN expert where requested by the parents and meeting the associated costs.

The governing board is responsible for:

- Providing information to the Secretary of State and LA about suspensions and permanent exclusions as required.
- Ensuring that suitable full-time education is arranged from the sixth school day for pupils of compulsory school age who are suspended for more than five school days in total.
- Considering parents' representations about suspensions and permanent exclusions where required by law.
- Considering any suspension or permanent exclusion that would result in a pupil missing a public examination or national curriculum test before the examination or test takes place.
- Considering whether a pupil should be permitted onto CPS premises to sit a public examination or national curriculum test.
- Ensuring that meetings are arranged within the statutory timescales and at a reasonable date and time.
- Making reasonable adjustments where required to enable parents and pupils to participate effectively.
- Considering the interests and circumstances of the suspended or permanently excluded pupil, including the circumstances in which the suspension or permanent exclusion occurred, and having regard to the interests of other pupils and staff.
- Applying the civil standard of proof when establishing facts relevant to a suspension or permanent exclusion.

- Ensuring clear minutes are taken of meetings.
- Recording the outcome of consideration on the pupil's educational record and retaining relevant documentation in accordance with legal and school requirements.
- Notifying the parents, headteacher and LA of decisions without delay.
- Appointing a clerk where appropriate to provide procedural and legal advice to the relevant panel or meeting.
- Informing parents of their right to apply for an IRP following a permanent exclusion where the governing board decides not to reinstate the pupil.
- Ensuring that a pupil's name is removed from the admission register only when the statutory requirements have been met.
- Reconvening within 10 school days where an IRP directs the governing board to reconsider reinstatement.
- Reviewing suspension, permanent exclusion, pupil movement and off-site education data to evaluate the effectiveness and consistency of the school's behaviour systems.

The clerk to an independent review panel is responsible for:

- Informing the relevant parties of their right to:
    - make written representations;
    - attend the hearing and make oral representations; and
    - be represented.
- Circulating relevant papers to the parties within the statutory timescale.
- Giving all parties details of those attending and their roles once known.
- Identifying, where appropriate, whether the excluded pupil wishes to attend and taking reasonable steps to enable the pupil's views to be heard.
- Taking reasonable steps to enable relevant witnesses to contribute where appropriate.
- Attending the review and ensuring that minutes are produced in accordance with the panel's instructions.

The headteacher is responsible for:

- Implementing effective behaviour and discipline arrangements so that pupils can benefit from education and suspension and permanent exclusion are minimised.

- Applying the civil standard of proof when establishing facts relating to a suspension or permanent exclusion.
- Complying with statutory duties relating to pupils with SEND, disabilities and EHC plans.
- Considering any contributing factors identified following an incident of poor behaviour, including bullying, safeguarding concerns, bereavement, mental health difficulties or other vulnerabilities.
- Considering whether a multi-agency assessment or additional support is appropriate for a pupil demonstrating persistent disruptive behaviour.
- Reviewing the effectiveness of suspension as a sanction, particularly where a pupil has received multiple suspensions or is approaching the statutory maximum.
- Considering what additional support may be required to identify and address the needs of individual pupils, particularly pupils with SEND, pupils eligible for free school meals, looked-after children and pupils who may be disproportionately affected by suspension or permanent exclusion.
- Engaging effectively with parents and relevant professionals.
- Determining whether a pupil should be suspended or permanently excluded on disciplinary grounds.
- Cancelling a suspension or permanent exclusion where permitted by law and complying with all statutory notification and reinstatement requirements.
- Ensuring that decisions to suspend or permanently exclude are lawful, rational, reasonable, fair and proportionate.
- Complying with the Equality Act 2010 and other relevant legal duties.
- Providing the pupil with an appropriate opportunity to give their views, having regard to their age and understanding and making reasonable adjustments where required.
- Considering their duty of care when sending a pupil home following suspension or permanent exclusion.
- Making decisions based on the evidence available at the time and not postponing a decision solely because a police investigation or criminal proceedings are taking place.
- Ensuring that CPS does not engage in unlawful off-rolling or informal exclusion.
- Notifying parents without delay when a pupil is suspended or permanently excluded and providing all information required by law.
- Ensuring that information provided to parents is clear and accessible.
- Notifying the governing board, LA and other relevant authorities as required.

- Reporting suspensions, permanent exclusions and cancelled exclusions to the governing board in accordance with this policy.
- Arranging work for pupils during the first five school days of a suspension where appropriate and ensuring that statutory alternative education arrangements are made from the sixth school day where required.

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3. Grounds for suspension or permanent exclusion

CPS will consider suspension or permanent exclusion where a pupil's behaviour amounts to a serious breach or persistent breaches of the school's Behaviour Policy and where the relevant statutory tests are met.

Examples of behaviour that may warrant suspension or permanent exclusion include:

- physical assault against a pupil;
- physical assault against an adult;
- verbal abuse or threatening behaviour against a pupil;
- verbal abuse or threatening behaviour against an adult;
- use, or threatened use, of an offensive weapon or prohibited item;
- bullying;
- discriminatory abuse, including racist, homophobic, biphobic, transphobic or ableist abuse;
- serious or persistent breaches of the school's Behaviour Policy; and
- behaviour that seriously threatens the safety or welfare of pupils or staff.

Behaviour that occurs outside CPS may be considered where it is reasonable and lawful for the school to do so, including where the behaviour has a direct impact on school discipline, safety, welfare or the school community.

Pupils may be suspended for fixed periods, subject to the statutory maximum of 45 school days in any academic year, or may be permanently excluded where the legal threshold is met.

A pupil may be permanently excluded following a suspension where further evidence or circumstances arise that meet the legal threshold for permanent exclusion. Any such decision will be made by the headteacher and will be notified as a new permanent exclusion decision.

A suspension or permanent exclusion decision will not be made:

- because a pupil has SEND or a disability;
- because CPS believes it is unable to support a pupil's SEND without first considering its legal duties and the available support;

- because of poor academic performance;
- because a pupil has not attended a reintegration meeting; or
- on non-disciplinary grounds, including as a response to the actions of a pupil's parents.

Permanent exclusion should be used only where:

- there has been a serious breach or persistent breaches of the school's Behaviour Policy; and
- allowing the pupil to remain in school would seriously harm the education or welfare of the pupil or others in the school.

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4. The headteacher's power to suspend and permanently exclude

Only the headteacher has the power to suspend or permanently exclude a pupil.

Where the headteacher is absent or unable to act, the person lawfully authorised to exercise the headteacher's functions may do so in accordance with the relevant legislation and school arrangements.

All suspensions and permanent exclusions will be issued on disciplinary grounds.

The headteacher may suspend a pupil for behaviour that occurs during lunchtime. Lunchtime suspensions will be recorded and counted in accordance with statutory requirements.

The headteacher may consider disruptive or inappropriate behaviour occurring outside CPS premises where this is reasonable and lawful and where the behaviour affects the school community, discipline, safety or welfare.

When sending a pupil home following suspension or permanent exclusion, the headteacher will exercise an appropriate duty of care and will ensure that parents are informed.

Any decision to suspend or permanently exclude will be lawful, reasonable, proportionate and fair. The headteacher will take account of relevant statutory duties, including duties under the Equality Act 2010 and duties relating to SEND and EHC plans.

The headteacher will apply the civil standard of proof when establishing facts relevant to a suspension or permanent exclusion. This means that the headteacher will consider whether, on the balance of probabilities, the relevant facts are more likely than not to be true.

The headteacher may cancel a suspension or permanent exclusion in accordance with statutory requirements. Where a suspension or permanent exclusion is cancelled, the headteacher will comply with all statutory notification and reinstatement requirements.

The headteacher will not issue informal or unofficial suspensions or permanent exclusions, including sending a pupil home to "cool off" for disciplinary reasons without recording the absence as a suspension.

The headteacher will not use the threat of suspension or permanent exclusion as a means of requiring parents to remove their child from school.

All suspensions and permanent exclusions will be formally recorded on the school's pupil information system and reported as required.

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5. Factors to consider when suspending or permanently excluding a pupil

When considering suspension or permanent exclusion, the headteacher will:

- give the pupil an appropriate opportunity to present their views, having regard to their age and understanding;
- consider relevant evidence;
- consider any contributing factors identified following an incident of poor behaviour;
- consider whether the pupil has experienced bullying, safeguarding concerns, bereavement, mental health difficulties or other relevant circumstances;
- consider whether the pupil has received previous suspensions and whether suspension is proving effective;
- consider whether appropriate interventions and support have been attempted or considered;
- consider whether additional support or specialist advice is required;
- consider whether the behaviour may be linked to SEND, disability, SEMH needs or other vulnerabilities;
- consider whether reasonable adjustments are required;
- consider whether alternative provision or off-site direction may be appropriate; and
- consider the impact of the proposed decision on the pupil and the wider school community.

CPS will monitor suspension and permanent exclusion data to identify whether particular groups of pupils may be disproportionately affected and whether additional support or changes to practice are required.

Particular attention will be given to:

- looked-after children;
- pupils with a social worker;
- pupils with SEND or an EHC plan;
- pupils eligible for free school meals; and

- groups identified through the school's equality monitoring.

Where a pupil with SEND or an EHC plan is at risk of suspension or permanent exclusion, CPS will consider whether additional support, specialist advice, reasonable adjustments, alternative provision or an early review of the EHC plan may be appropriate.

Where a pupil has an EHC plan, the headteacher will consider whether an early annual review or emergency review is appropriate, in consultation with the LA and the pupil's parents.

Where SEND or SEMH needs are identified, CPS will use the graduated approach set out in its SEND and Behaviour policies as appropriate.

The existence of SEND, disability or SEMH needs will not in itself prevent suspension or permanent exclusion where the legal threshold is met. However, CPS will ensure that relevant statutory duties and reasonable adjustments have been considered before making a decision.

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6. Preventative measures

Before taking a decision to permanently exclude, the headteacher will consider whether appropriate alternatives may reduce the risk of permanent exclusion, including additional support, reasonable adjustments, off-site direction or a managed move.

The appropriateness of any alternative will depend on the circumstances of the individual pupil and case.

Off-site direction

Off-site direction is a temporary measure intended to improve a pupil's future behaviour.

The governing board may require a registered pupil to attend another educational setting for the purpose of receiving educational provision intended to improve their behaviour, in accordance with the relevant legislation.

Off-site direction will be considered where CPS believes that a temporary placement away from the school may be appropriate to improve behaviour and where appropriate in-school interventions have been unsuccessful or are inappropriate.

An off-site direction will have clearly defined objectives and, where appropriate, a proposed maximum period. CPS will consider what arrangements should apply when the placement ends.

Parents and the pupil will be informed of the reasons for the direction, the objectives, the placement arrangements and the expected duration.

Where required, CPS will provide parents with written information within the statutory timeframe, including:

- the address of the provision;
- the person to whom the pupil should report;

- the number of days for which the direction applies;
- the reasons for the direction;
- the objectives of the direction; and
- the relevant session times.

Where the pupil has an EHC plan, CPS will comply with the additional statutory requirements relating to consultation with the LA and the pupil's parents.

Off-site placements will be reviewed at appropriate intervals to assess whether the placement is achieving its objectives and whether it should continue.

Reviews will be recorded in writing.

Managed moves

A managed move is a voluntary arrangement intended to allow a pupil to transfer permanently to another mainstream school where this is considered to be in the pupil's best interests.

A managed move will only take place with the agreement of the relevant parties, including the parents and the admission authority of the receiving school.

A managed move will not be used as an informal or unofficial exclusion.

CPS will keep detailed records of any managed move, including the reasons for considering the move and evidence of interventions already undertaken.

Where a managed move proceeds, CPS will share relevant information with the receiving school, in accordance with data protection and safeguarding requirements, to support an effective transition and risk management.

Where parents believe that a managed move is being presented as compulsory, or where they have concerns about the process, they will be informed of the school's Complaints Policy and Procedure.

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7. Duty to inform parents

Following the headteacher's decision to suspend or permanently exclude a pupil, the headteacher will notify the parents without delay.

The notification will state:

- the period of the suspension or that the exclusion is permanent;
- the reasons for the decision;
- the relevant rights of representation;
- the applicable arrangements for considering representations;

- the pupil's right to have their views considered;
- information about remote access where applicable;
- arrangements for the pupil's education;
- information about relevant free and impartial sources of advice; and
- any other information required by statutory guidance.

Where a pupil is of compulsory school age, parents will be informed of their legal responsibility during the first five school days of a suspension or permanent exclusion to ensure that their child is not present in a public place during school hours without reasonable justification.

Parents will also be informed that a penalty notice may be issued where the relevant statutory conditions are met.

Where alternative provision is arranged, parents will be informed of:

- the start and end date;
- the address of the provision;
- the person to whom the pupil should report; and
- any other information necessary to enable the pupil to attend.

Where CPS cannot provide all relevant alternative-provision information immediately, it will provide the outstanding information as soon as reasonably practicable and within the applicable statutory timeframe.

Where a further suspension is issued, or where a permanent exclusion follows a suspension, a new notice will be issued.

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8. Duty to inform the governing board and LA

The headteacher will inform the governing board without delay of:

- any permanent exclusion;
- any suspension which would result in the pupil being suspended for more than five school days in a term;
- any suspension which would result in the pupil missing a public examination or national curriculum test; and
- any other matter for which notification is required by law.

For other suspensions, the headteacher will provide information to the governing board at least termly.

The headteacher will inform the LA of suspensions and permanent exclusions in accordance with statutory requirements.

Notifications will include the reasons for the suspension or permanent exclusion and the duration of any suspension.

Where the pupil's home address is outside the LA area in which CPS is located, the relevant home authority will be notified where required.

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9. Duty to inform social workers and the Virtual School Head

Where a pupil has a social worker, the headteacher will notify the social worker without delay following a suspension or permanent exclusion, in accordance with statutory guidance.

Where a pupil is looked after, the Virtual School Head (VSH) will be notified without delay.

Notifications will include the period of any suspension and the reasons for the suspension or permanent exclusion.

The social worker and/or VSH will be informed of relevant governing board meetings and will be invited to contribute where appropriate.

Remote participation may be permitted where the arranging authority is satisfied that the person can participate effectively and that the meeting can be conducted fairly and transparently.

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10. Arranging education for suspended and permanently excluded pupils

For a suspension lasting more than five school days in total, the governing board will arrange suitable full-time education from, at the latest, the sixth school day.

Where consecutive suspensions result in the pupil being suspended for more than five school days in total, they will be considered cumulatively for the purposes of arranging education.

For a permanent exclusion, the LA will arrange suitable full-time education from the sixth school day.

Where appropriate, CPS will seek to arrange alternative education before the sixth school day.

During the first five school days of a suspension, CPS will take reasonable steps to provide suitable work for the pupil and, where appropriate, mark the work.

Where a pupil is looked after or has a social worker, CPS and the LA will work together to seek to arrange appropriate education from the first day following exclusion where possible.

Where a pupil with SEND is suspended or permanently excluded, CPS will consider the pupil's needs when arranging education and will comply with relevant duties relating to any EHC plan.

Where a pupil has an EHC plan, CPS will consult the LA and parents as appropriate regarding the suitability of alternative provision.

11. Reintegration following suspension and consideration by the governing board

A reintegration meeting may be held with the pupil, parents and an appropriate member of staff following a period of suspension.

A reintegration meeting will not be used as a condition of the pupil returning to school. If parents are unable or unwilling to attend, the pupil will be permitted to return to school.

The governing board will consider representations made by parents regarding suspensions and permanent exclusions in accordance with statutory requirements.

Parents, the headteacher and, where applicable, a representative of the LA will be given the opportunity to make representations where required.

Parents may request remote access where they have the statutory right to do so.

Where appropriate to the pupil's age and understanding, the pupil will be enabled to contribute their views.

The governing board must consider reinstatement where:

- the exclusion is permanent;
- a suspension would bring the pupil's total number of suspended school days to more than 15 in a term; or
- the suspension or permanent exclusion would result in the pupil missing a public examination or national curriculum test.

Where a suspension would result in the pupil being suspended for more than five but not more than 15 school days in a term, the governing board will consider the suspension where the parents make representations within the statutory timeframe.

Where no representations are made in such circumstances, the governing board is not required to meet and cannot direct reinstatement.

Where a suspension does not bring the pupil's total number of suspended school days above five in a term, the governing board will consider any representations made by parents but cannot direct reinstatement.

Where suspension or permanent exclusion would result in a pupil missing a public examination or national curriculum test, the governing board will consider the matter before the examination or test where practicable.

When considering a suspension or permanent exclusion, the governing board will:

- consider the evidence available;
- consider the pupil's views and circumstances;
- consider representations made by parents and other relevant parties;

- consider relevant SEND, disability, safeguarding and equality matters;
- consider reasonable adjustments;
- consider written evidence submitted in advance;
- circulate relevant evidence to parties within the statutory timeframe;
- allow parents and pupils to be accompanied by a person of their choice where permitted;
- take reasonable steps to enable the pupil to participate;
- consider whether remote access is appropriate;
- ensure that the meeting is conducted fairly and transparently; and
- keep clear minutes of the meeting.

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12. Reaching a decision

After considering a suspension or permanent exclusion, the governing board will either:

- decline to reinstate the pupil; or
- direct reinstatement immediately or on a specified date.

Where reinstatement would make no practical difference, the governing board will nevertheless consider whether the decision to suspend or permanently exclude was lawful, reasonable, proportionate and fair based on the evidence available.

The governing board will apply the civil standard of proof when establishing relevant facts.

Before reaching its decision, the governing board will:

- ensure that all relevant parties have an appropriate opportunity to participate;
- consider all relevant evidence;
- take account of the interests and circumstances of the pupil;
- take account of the interests of other pupils and staff;
- consider the headteacher's legal duties;
- consider Equality Act and SEND duties;
- consider whether reasonable adjustments were required or made;
- ensure that minutes are taken;
- require parties to withdraw before the governing board reaches its decision; and
- record the decision and reasons.

The outcome will be recorded on the pupil's educational record and relevant documents will be retained in accordance with legal requirements and the school's record-retention arrangements.

The LA will be informed of the outcome where required.

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13. Notification of governing board decisions

The governing board will notify the parents, headteacher and LA of its decision without delay and in writing.

Where the governing board decides not to reinstate a permanently excluded pupil, parents will be informed:

- that the exclusion is permanent;
- of their right to request an independent review;
- of the deadline for submitting an application;
- where and how the application should be submitted;
- that they may request remote access where permitted;
- that the application should set out the grounds on which the review is requested;
- that, where appropriate, the application should explain how the pupil's SEND is relevant to the exclusion;
- that parents have the right to request the attendance of a SEN expert, regardless of whether the school has identified the pupil as having SEND;
- that the SEN expert is appointed by the relevant arranging authority and that parents will not be charged for the expert's attendance; and
- that parents may appoint someone at their own expense to make representations to the panel.

Parents will also be informed that they may have a right to make a discrimination claim under the Equality Act 2010.

Where the alleged discrimination relates to disability, a claim may fall within the jurisdiction of the First-tier Tribunal (Special Educational Needs and Disability). Other Equality Act claims relating to exclusion may fall within the jurisdiction of the County Court.

Parents will be provided with information about the applicable time limits and relevant sources of independent advice.

Following any governing board consideration, the governing board will notify the parents and relevant parties of the decision and reasons in sufficient detail.

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14. Removing permanently excluded pupils from the admission register

The governing board will ensure that a permanently excluded pupil's name is removed from the admission register only when the statutory requirements have been met.

The pupil's name will not be removed from the admission register before the relevant statutory period has expired and any applicable independent review process has been completed or abandoned.

Where an application for an independent review has been made within the statutory timeframe, the pupil's name will remain on the admission register until the review has been determined or abandoned and any required reconsideration by the governing board has been completed.

CPS will comply with the School Attendance (Pupil Registration) (England) Regulations 2024 when removing a pupil from the admission register.

The school will not backdate the removal of a pupil's name from the admission register to the date of the permanent exclusion.

Where required, the headteacher will make the appropriate return to the LA containing:

- the particulars entered in the admission register;
- the address of the parent with whom the pupil normally resides; and
- the grounds on which the pupil's name has been removed.

The return will be made within the statutory timeframe.

While the pupil remains on the admission register, the appropriate attendance code will be used in accordance with the statutory attendance guidance and regulations.

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15. Independent review panel

Where the governing board decides not to reinstate a permanently excluded pupil, parents may apply for an independent review within the statutory timeframe.

The relevant arranging authority will constitute an independent review panel of three or five members.

The panel will consist of:

- a lay member to chair the panel, who has not worked in a school in a paid capacity;
- a current or former school governor who has served for at least 12 consecutive months within the previous five years; and
- a headteacher or individual who has been a headteacher within the previous five years.

Parents must submit their application within 15 school days of being notified of the governing board's decision, subject to the statutory provisions relating to discrimination claims.

Parents may apply for an independent review even if they did not make representations to, or attend, the governing board meeting.

The independent review will take place within the statutory timeframe.

Parents may request that the independent review panel is held via remote access.

The arranging authority will comply with all statutory requirements relating to the constitution and operation of independent review panels.

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16. Appointing a SEN expert

Parents have the right to request the attendance of a SEN expert at an independent review panel.

The relevant arranging authority will appoint the SEN expert and meet the associated costs.

The SEN expert will be independent and will not have a conflict of interest arising from a connection with the school, pupil, parents or circumstances of the exclusion.

The SEN expert will have relevant professional experience of assessing or supporting children and young people with SEND and an understanding of the legal duties relating to SEND.

The SEN expert may provide advice on:

- whether SEND may be relevant to the exclusion;
- whether the school's SEND policies and their application were lawful, reasonable and procedurally fair; and
- whether SEND may have contributed to the circumstances leading to the exclusion.

The SEN expert does not determine whether the pupil has SEND and does not make the decision on whether the pupil should be reinstated.

The arranging authority will take reasonable steps to ensure that the SEN expert is impartial and suitably qualified.

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17. The role of the SEN expert

The SEN expert's role is analogous to that of an expert witness.

The SEN expert will provide impartial advice to the independent review panel, orally and/or in writing, based on the evidence available to the panel.

The SEN expert will consider whether:

- SEND may be relevant to the circumstances of the exclusion;
- the school's SEND policies were appropriately applied;

- the school acted lawfully, reasonably and procedurally fairly in relation to SEND; and
- SEND may have contributed to the circumstances leading to the exclusion.

Where CPS has not identified the pupil as having SEND, the SEN expert may advise the panel on whether the school acted appropriately in relation to identifying and responding to potential SEND.

The SEN expert will not criticise the school merely because a different approach could have been taken.

The SEN expert will not make the final decision on reinstatement.

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18. Appointing a clerk

The relevant arranging authority will determine whether to appoint a clerk to the independent review panel or make alternative arrangements to administer the panel.

Where a clerk is appointed, they will not have served as clerk to the governing board for the original decision not to reinstate the pupil.

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19. The role of the clerk

The clerk's role is to provide advice to the panel and parties on procedure, law and statutory guidance.

The clerk will:

- identify whether the excluded pupil wishes to attend;
- take reasonable steps to enable the pupil's views to be heard;
- identify whether relevant witnesses wish to attend;
- take reasonable steps to enable relevant witnesses to contribute where appropriate;
- inform parents, the headteacher, governing board and LA of their rights to make written and oral representations and to attend and be represented;
- ensure that relevant papers are provided within the statutory timeframe;
- inform parties about those attending and their roles;
- attend the review; and
- ensure that minutes are produced in accordance with the panel's instructions.

Where a clerk is not appointed, the arranging authority will ensure that the necessary administrative functions are carried out.

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20. The duties of the independent review panel

The role of the independent review panel is to review the governing board's decision not to reinstate a permanently excluded pupil.

The panel will consider:

- the interests and circumstances of the excluded pupil;
- the circumstances in which the pupil was excluded;
- the interests of other pupils and staff;
- relevant representations and evidence; and
- whether the governing board's decision was flawed when considered against the principles applicable to judicial review.

The panel will apply the civil standard of proof when establishing facts.

Following the review, the panel will:

- uphold the governing board's decision;
- recommend that the governing board reconsiders reinstatement; or
- quash the governing board's decision and direct that the governing board reconsiders reinstatement.

The panel's decision is binding on the pupil, parents, governing board, headteacher and LA, subject to any applicable legal challenge.

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21. Conducting governing board meetings and independent review panels via remote access

Parents, and excluded pupils aged 18 or over, may request that a governing board meeting or independent review panel is held via remote access where permitted by the statutory framework.

Where a valid request is made, the governing board or arranging authority will make arrangements for remote participation where the statutory conditions are satisfied.

Remote meetings will be conducted within the same statutory timescales as face-to-face meetings.

The governing board or arranging authority will only conduct a meeting remotely where it is satisfied that:

- the meeting can be conducted fairly and transparently;
- all relevant participants can participate effectively;

- participants can hear and be heard;
- reasonable adjustments can be made;
- participants have appropriate access to technology; and
- the use of remote access will not prevent any party from making representations or fulfilling their role.

Where technical difficulties prevent the meeting from being conducted fairly and transparently and cannot reasonably be resolved, arrangements will be made for a face-to-face meeting where practicable.

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22. Reconsidering reinstatement following an independent review

Where an independent review panel directs the governing board to reconsider reinstatement, the governing board will reconsider the decision within 10 school days of being notified of the panel's decision.

Where the panel recommends that the governing board reconsider reinstatement, the governing board will consider the recommendation within 10 school days.

Where an IRP directs reconsideration and the governing board does not offer to reinstate the pupil, the relevant financial adjustment will apply in accordance with the statutory framework.

Where an IRP merely recommends reconsideration and the governing board does not offer reinstatement, the financial adjustment does not apply.

Where the governing board offers reinstatement and the parents decline the offer, the financial adjustment will not apply.

Following reconsideration, the governing board will notify the parents, headteacher and LA of its decision and reasons without delay.

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23. Criminal investigations

The headteacher will not postpone a decision to suspend or permanently exclude solely because a police investigation or criminal proceedings are underway.

The headteacher will consider carefully the evidence available and ensure that the decision is fair, reasonable and proportionate.

Where evidence is limited because of a police investigation, the headteacher will take particular care to ensure that the decision is based on the evidence available at the time.

Where the governing board is required to consider the decision, it will not automatically postpone its consideration because criminal proceedings are ongoing.

The governing board will consider the evidence available to it and apply the civil standard of proof.

24. Training requirements

The relevant arranging authority will ensure that independent review panel members and clerks have received the required training within the statutory timeframe.

Training will cover:

- relevant legislation, regulations and statutory guidance;
- procedural fairness and the principles of natural justice;
- the role of the independent review panel;
- the role of the clerk;
- the duties of headteachers and governing boards;
- the Equality Act 2010;
- SEND duties;
- human rights considerations; and
- relevant developments in case law.

Clerks will maintain an up-to-date understanding of relevant statutory requirements and case law.

25. Using data

The headteacher will ensure that appropriate data relating to suspension, permanent exclusion, pupil movement, off-site direction and alternative provision is collected and provided to the governing board at least termly.

The governing board will review this data to:

- monitor the use of suspension and permanent exclusion;
- consider whether permanent exclusion is being used only where appropriate;
- identify patterns in repeated suspensions;
- monitor pupil movement and managed moves;
- monitor pupils attending education off-site;
- consider the characteristics of pupils who are suspended or permanently excluded;
- identify potential equality issues;
- evaluate the effectiveness and consistency of the Behaviour Policy;

- evaluate interventions for pupils at risk of suspension or permanent exclusion;
- identify whether particular groups of pupils may be disproportionately affected;
- monitor the use and effectiveness of off-site direction;
- ensure that off-site placements are reviewed at appropriate intervals;
- identify patterns that may indicate that behaviour policies or support measures require review; and
- ensure that pupils receiving alternative provision continue to receive suitable education.

The governing board will use this information to evaluate the effectiveness of the school's behaviour, suspension and permanent exclusion practices and to identify where changes or additional support may be required.

Flowchart for reviewing the Headteacher's suspension or exclusion decision

