

Nishkam School Trust



Exclusions Policy

Policy Version	Date Approved	Signed by Director	Signed by Executive Principal	Signed by School Lead
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Exclusions Policy

SERIOUS INCIDENTS OF MISBEHAVIOUR
LEADING TO FIXED PERIOD
OR PERMANENT EXCLUSION

Action to be invoked by Senior Staff in Serious Disciplinary Matters

- 1) Over serious matters a senior member of staff, i.e. Key Stage Director or a member of Leadership Team, must interview students. If the nature of the incident is very serious than two staff members should be present to conduct the interview. The student should be questioned fairly and be given ample opportunity to give a response. The student should be asked to provide a written statement of what happened and asked to sign it. Other statements should also be taken, signed and submitted so that the school can build a picture of what it believes, on a balance of possibility, has actually happened in each instance. At this stage this statement will help the School Principal/Headteacher to decide on what further action should be taken.
- 2) In discharging their duties the School Principal and Governors of NST will have regard to DCSF guidance on exclusions.
- 3) A decision to exclude a pupil will only be taken
 - In response to serious breaches of the school's behaviour and discipline policy.
 - If allowing the pupil to remain in the school would seriously harm the learning or welfare of the pupil or other pupils in the school.
 - In cases where there has been a major breach of normal expectations of conduct.
- 4) Before excluding a child, in most cases a range of alternative strategies will have been tried.

Responsibilities of the School Principal/Headteacher

- 5) The School Principal/Headteacher (or his/her Deputy Headteacher/Vice Principal, if he/she is absent) has the power to exclude pupils.
- 6) In considering excluding a pupil the School Principal/Headteacher should carry out a range of activities including:
 - Undertaking a thorough investigation
 - Considering all the relevant facts and firm evidence to support the allegations
 - Taking into account the school's behaviour policy including the equal opportunities and anti-bullying policies
 - Checking whether an incident appeared to be provoked by racial or sexual harassment
 - Ensuring that all pupils involved including those pupils with Learning difficulties have the opportunity to give their version of events
 - Consulting other people or agencies except where they may be involved in any

- review of the exclusion
 - Ensuring time has been given to addressing and supporting the pupil's individual problems
- 7) Before deciding to exclude a pupil permanently the School Principal/Headteacher will normally first try a range of strategies including fixed term exclusion. Normally only when other strategies have been tried without success will the School Principal consider permanent exclusion.
 - 8) There are occasions when the severity of the offence will merit permanent exclusion, even when there has been no record of poor behaviour.
 - 9) The School Principal/Headteacher may exclude a pupil for one or more fixed periods up to and including 45 Nishkam days in any one academic year or permanently
 - 10) The School Principal/Headteacher will aim for the shortest possible period of exclusion but, however brief, an exclusion plan will be made
 - To enable the pupil to continue his or her education
 - To use the time to address the pupil's problems
 - To plan the process of reintegration

Informing Parents/ Carers about the Exclusion

- 11) The School Principal/Headteacher will make sure the Parent / Carer 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.
- 12) Letters about fixed period and permanent exclusions will explain:-
 - Why the School Principal/Headteacher decided to exclude the student
 - The arrangements for enabling the student to continue his/her education, including setting and marking the student's work.
 - The parent's right to state their case to the Governing Body.
 - Who the parents should contact if they wish to state their case (usually the Clerk to the Governing Body).
 - The latest date by which the parent can put a written statement to the Governing Body.
 - 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 and the date and time the student should return to the school.
 - 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.
- 13) If the School Principal/Headteacher wishes to extend a fixed period exclusion or, exceptionally, converts a fixed period exclusion into a permanent exclusion, he will again write to the Parent explaining the reasons and making the other points above. Where an exclusion is extended there will be a renewed right for the parent to state their case to the Governing Body.

Informing the Governing Body

- 14) The School Principal/Headteacher will inform the Chairman of the Governing Body of:-
- All permanent exclusions
 - All exclusions which would result, separately or in total, in the student missing more than five school days in any one term
 - All exclusions which deny students the opportunity to take a public examination.
- 15) Fixed period exclusions of one to five school days will be reported termly, unless the Governing Body asks for more frequent reports.
- 16) The School Principal/Headteacher will inform the pupil's home LA of that pupil's permanent exclusion, so that the LA can make preparations to provide him with suitable full-time education if he remains excluded after 6 school days.

Responsibilities of the Governing Body

- 17) The Governing Body does not have the right to exclude a pupil. The Governing Body will review the use of exclusion in the school regularly. The Governing Body may establish a Discipline Committee and, when the need arises, will establish an independent Appeal Panel.
- 18) If the Governing Body decides to establish a Discipline Committee, it will consist of at least three Governors who will review the use of exclusion within the school, 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 pupil would miss an opportunity to take a public examination. The Governing Body will appoint a clerk to the Discipline Committee to provide advice on the exclusions process and to handle the administrative arrangements for considering exclusions.
- 19) If the exclusion is for five school days or fewer the Governing Body will consider any statement submitted by the parent. If any exclusion would cause the pupil to miss sitting a public examination the Governing Body will try to meet before the public examination. Where a public examination is concerned, if it is not practical for the Governing Body to meet, the Chair of the Governors will consider the exclusion. Alternative arrangements to allow an excluded pupil to take public examinations will be considered.
- 20) For exclusions of more than fifteen school days in a term the Governing Body will consider the exclusion and decide whether the pupil should be reinstated. If a pupil has been excluded on a number of occasions the Governing Body will meet once the pupil has missed more than fifteen school days in the term. The parent can request a meeting for one or more exclusions totalling over 5 school days in a term.
- 21) For permanent exclusions the Governing Body will consider the exclusion and decide whether the pupil should be reinstated. Such consideration will take account of the pupil's disciplinary record and the interests of the whole school community of the school as well as the severity of the offence.
- 22) On receiving notice from the head teacher that a pupil has been excluded for more than five school days, the clerk to the Governing Body should:
- For an exclusion of between six school days and 15 school days in a term, set up a meeting, only if requested by the parent, between the 6th and the 15th 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 any meeting;
- Circulate any written statements, ensuring that the identity of pupils is concealed if thought appropriate, and a list of those who will be present at the meeting to all parties attending.

23) The chair of the Governing Body should normally allow the excluded pupil to attend the meeting and speak if the parent and the pupil ask for this. If the pupil is 18 or over, he presents his own case.

Procedure at the Meeting

24) If the pupil is back at school before the Governing Body meets, the meeting still enables the parent to give their views. The Governing Body can also consider whether more information should be added to the pupil's record.

25) If the pupil is still excluded when the meeting takes place, the Governing Body should decide whether to direct re-instatement. In reaching their decision the Governing Body should:

Consider the parent's statements;

- Have regard to DCSF guidance on the appropriate use of exclusion and the school's Positive Behaviour Policy. Also, they should consider whether School Principal/Headteacher has tried sufficient approaches to improve a pupil's behaviour before resorting to exclusion, and whether any further strategies might be an alternative to exclusion;
- **(For permanent exclusion)** normally satisfy itself that all possible strategies to improve a pupil's behaviour were tried without success. Strategies should include those in DCSF guidance, including a Pastoral Support Programme. For children with statements of SEN, asking the LA to review the statement might be better than resorting to exclusion.

26) The Governing Body may not attach conditions to the re-instatement of a pupil.

27) If the Governing Body upholds the School Principal/Headteacher decision to exclude a pupil 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 Appeal 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 give the grounds of appeal and stating the latest date for giving notice (15 school days from the date of notification of the Governing Body's decision). The parent has the right to appeal to the panel even if they did not make a case to the Governing Body.

28) If the Governing Body upholds a decision to exclude a pupil permanently it will notify the pupil's home LA in writing of this decision within one school day of the meeting. The Governing Body's decision on fixed term exclusions is final. In the case of

permanent exclusions, parents may appeal to an independent Appeals Panel.

After the Meeting

- 29) A note of the Governing Body's views on the exclusion should normally be placed on the pupil's record with a copy of the School Principal/Headteacher's exclusion letter.

Appeal Hearings

- 30) Parents whose child is excluded permanently from the school have the right to appeal against the Governing Body's decision to uphold the exclusion. This appeal is made to the Appeal Panel. The right of appeal is unrestricted subject to the time limit.
- 31) An appeal must be lodged in writing to the Clerk to the Appeal Panel within 15 school days from the date the parent receives notice of the decision. The panel should meet as soon as possible but in any event within 15 school days of the notification of appeal
- 32) In the event of a permanent exclusion the pupil's home LA will be notified promptly once the exclusion is confirmed

Arranging an Appeal Hearing

- 33) The letter from the Clerk to the Governing Body will inform the parents of their right to appeal against the decision of the Governing Body not to re-instate the permanently excluded student. The letter will give the name and contact details of the Clerk to the Appeal Panel (who should not be the same person as the Clerk to the Governing Body) and 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.
- 34) 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, or where the notice is hand-delivered, the date of delivery (unless a different date of receipt can be demonstrated). No appeal will be accepted if it is made after the final date for lodging an appeal.
- 35) The Independent Appeal Panel will comprise three or five members plus a clerk appointed by the Governing Body.
- 36) No Governor, employee of the Nishkam School Trust or person who has had any connection with the Nishkam School Trust or with the excluded student or with the incident leading to the exclusion, shall serve on the Appeal Panel. The members of a three member Panel will be: a serving or recently retired (within the previous 5 years) Head teacher of a school; a serving or recently serving (within the previous 6 years) governor of a school with at least one year's unbroken service and who has not been a teacher or Head teacher within the previous 5 years; and a lay member who takes the Chair. The members of a five member Panel will be two Head teachers, two governors and a lay member who takes the chair. A lay member is a person without personal experience in the management of any school or the provision of education in any school disregarding any experience as a governor or in any other voluntary capacity.
- 37) The Appeal Panel may not reinstate pupils purely on the basis of 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 pupil should be reinstated. The Appeal Panel will rather consider afresh the question of whether the pupil should be reinstated.

38) The Appeal Panel will meet within 15 school days of the date the parent lodges notice of appeal.

39) Those entitled to attend a hearing and present their case are:-

- The parent (or the pupil if aged 18 or over), who may be represented by a legal or other representative.
- The School Principal, who may make oral representations.
- A nominated member of the Governing Body, who may make oral representations.
- A legal or other representative of the Governing Body.

40) The School Principal/Headteacher 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 five working days in advance of the hearing. The student, if the parent requests, will normally be allowed to attend the hearing and speak on his own behalf.

Role of the Clerk

41) The Appeal 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 should not be the same person who served as a clerk to the prior Governing Body hearing.

42) 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.

Procedure at the Hearing

43) The appeal hearing will not be held at the school. The Appeal Panel will do everything possible to establish an atmosphere of informality where the parties can present their cases effectively.

44) The remit of the Appeal Panel is to consider whether the pupil should have been excluded and whether the pupil should be re-instated,

45) In considering an appeal, the panel will decide whether the pupil actually did what he or 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 pupil did what he was alleged to have done, 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 pupils and staff in the school, as well as those of the excluded pupil;
- The school's published discipline policy;

- Where other pupils 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 pupils involved.

- 46) To reach a decision, the panel may need to hear evidence from those directly or indirectly involved, including the pupil. The governing body 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 governing body should be given an opportunity to respond.
- 47) 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 the school 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.
- 48) 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.
- 49) The clerk may be called on to give legal or procedural advice to the Appeal Panel during the course of the hearing and when they retire to consider their decision.
- 50) 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 a second language or who have literacy problems, and who may not have understood all the paperwork.
- 51) If the Appeal Panel wish to vary the notified procedure, they should only do so after hearing the views of all the parties present and entitled to make representations.
- 52) 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 Appeal Panel.
- 53) 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 takes place other than in the presence of all the panel members.

Evidence and witnesses

- 54) 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.
- 55) The Appeal Panel cannot compel witnesses to attend and any witnesses must therefore appear before it voluntarily. The Appeal 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 School Principal) who investigated the incident and interviewed pupils. The School Principal has the right to make written representations to the panel and to appear and make oral representations.

- 56) 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 pupils of the school, it will generally be appropriate for the panel to rely on their written statements. Pupils 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 pupils. 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.
- 57) 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 hearing.
- 58) 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 Appeal Panel in good time before the hearing. If substantial new issues are raised for the first time at the hearing, an adjournment may be necessary to allow all parties to consider the issues.
- 59) An appeal panel may uphold the decision to exclude; direct immediate reinstatement or reinstatement at some future date; or may decide that because of exceptional circumstances or other reasons it is not practical to give a direction requiring reinstatement, but that it would otherwise have been appropriate to give such a direction. An Appeal Panel, when directing re-instatement, 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 re-instatement should be reasonable in all the circumstances. The Appeal Panel cannot attach conditions to the re-instatement of a pupil.
- 60) 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 three categories of member are still represented on the panel. In such cases the Chair would have the casting vote.

Record of the proceedings of an Appeal Panel

- 61) The clerk to an Appeal Panel should take minutes of the proceedings, the attendance, the voting and record the decision in a format approved by the Appeal Panel.

After the Hearing

- 62) The decision of the Appeal Panel is binding on all parties. The Appeal 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.

- 63) If the Appeal Panel upholds the permanent exclusion, the clerk should immediately report this to the pupil's home LA. The clerk should also advise the parent to contact the LA about arrangements for their child's continuing education. The head teacher should remove the pupil's name from the school's roll the day after the conclusion of the exclusion appeal. Where the Appeal Panel direct re-instatement they should immediately inform the School Principal of their decision and specify the date on which the pupil must be readmitted.
- 64) Details of an exclusion may not be deleted from the pupil 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 pupil's record. It will be for the Governing Body to decide what details of the exclusion are included in the pupil's Nishkam record: copies of the School Principal correspondence should be included and possibly the minutes of the Governing Body and Appeal Panel hearings, if the Governing Body and Appeal Panel respectively agree to this.

Monitoring, Evaluation and Review

The Governing Body will review this policy at least every two years and assess its implementation and effectiveness.