

Yesodey Hatorah Girls Secondary School Exclusions policy



Approved by: Finance and Resources Committee

Date: May 2021

Last reviewed on: June 2018

Next review due by: May 2022

Contents

1. Aims	2
2. Legislation and statutory guidance	2
3. The decision to exclude	3
4. Making the decision to exclude	4
5. Definition	5
6. Roles and responsibilities	6
7. Considering the reinstatement of a pupil	7
8. An independent review	8
9. School registers	9
10. Returning from a fixed-term exclusion	9
11. Monitoring arrangements	9
12. Links with other policies	9
Appendix 1. Independent Review Panel training	10

1. Aims

Yesodey Hatorah has the highest concern for the safety and wellbeing of the whole school community, and we work hard to ensure that our ethos and environment supports student learning and success. Exclusion is a sanction used only as a last resort, and we aim to reduce the need for the use of it as far as is possible. This policy outlines the school's use of exclusions and is supported by our school behaviour policy.

Our school aims to ensure that:

- › The exclusions process is applied fairly and consistently
- › The exclusions process is understood by governors, staff, parents and pupils
- › Pupils in school are safe and happy
- › Pupils do not become NEET (not in education, employment or training)

2. Legislation and statutory guidance

This policy is based on statutory guidance from the Department for Education: [Exclusion from maintained schools, academies and pupil referral units \(PRUs\) in England](#).

It is based on the following legislation, which outline schools' powers to 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

In addition, the policy is based on:

- › Part 7, chapter 2 of the [Education and Inspections Act 2006](#), which looks at parental responsibility for 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](#)

3. The decision to exclude

3.1 Power to exclude

Only the Headteacher, or acting Headteacher, can exclude a pupil from school. A permanent exclusion will be taken only as a last resort.

A pupil may be excluded for one or more fixed periods (up to a maximum of 45 school days in a single academic year).

In exceptional cases, usually where further evidence has come to light, a fixed period exclusion may be extended or converted to a permanent exclusion.

3.2 Off-rolling

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.”

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

3.3 Reasons for exclusion

A decision to exclude a pupil will be taken only:

- › In response to serious or persistent breaches of the school's behaviour policy, **and**
- › If allowing the pupil to remain in school would seriously harm the education or welfare of others

Before deciding whether to exclude a pupil, either permanently or for a fixed period, the Headteacher will:

- › Consider all the relevant facts and evidence, including whether the incident(s) leading to the exclusion were provoked
- › Allow the pupil to give their version of events
- › Consider if the pupil has special educational needs (SEN)

4. Making the decision to exclude

Exclusion of any sort, for any period of time, is taken very seriously by the school, and the decision to exclude is not taken lightly. Various alternative strategies to manage behaviour will be tried before exclusion, as this sanction is only used as a last resort, unless there is an immediate threat to safety within the school.

Before the decision to exclude is made, the Headteacher will:

- › ensure that the school has made a thorough investigation
- › consider all the evidence available when looking to support the allegations
- › encourage the pupil to give his or her version of events
- › take into account the school's behaviour policy and equal opportunities policy, and relevant equalities legislation
- › find out whether the behaviour may have been provoked, for example in the case of racial harassment, or bullying
- › consult other people as necessary (but not anyone on the governing body or management committee who may later have a role in reviewing the decision)

- keep a written record of discussions, interviews and actions, and retain copies of written records made by other members of staff, ensuring that witness statements are dated and signed if possible.

If it is decided that exclusion is necessary, the parents or carers of the pupil will be notified, and the circumstances surrounding the exclusion will be formally recorded.

4.1 Alternative behaviour management strategies

In the first instance, unless the situation warrants immediate intervention, the school will try to resolve the issue via regular disciplinary channels as outlined in the school behaviour policy. This includes internal 'time-out' arrangements, putting a student on Record/Report and/or detention. In the event that further intervention is required we will pursue one or more of the following options:

4.2 Internal exclusion

If a pupil needs to be removed from a lesson that is in progress, or a social situation, for disruptive behaviour or to calm down, it may be necessary to place that pupil elsewhere in the school. This may occur over break times and will be used in circumstances where it is not necessary to remove the pupil from the school site, but separation is needed. They may be placed in another class or somewhere where appropriate support and supervision can be provided.

4.3 Mediation

If there is a conflict between two or more pupils, a member of staff will sit down with those involved and attempt to mediate the situation through discussion. This strategy may also be used if there is a conflict between a teacher and a pupil.

4.4 Restorative justice

This strategy is dependent on the cooperation of all parties involved in an incident or situation, and will usually be used where one person has done something to upset or harm another. It can be helpful for the offender to redress the harm that they have done and hopefully learn from their mistakes. It can also provide closure for those who have been harmed.

4.5 Managed move

It may be in the best interest of a pupil to have a chance of a fresh start by moving to another school. This will only occur in consent with parents, the LA, the Headteacher, and the school's governing body. The new school will be asked by the Headteacher to accept the pupil.

Parents will not be put under any pressure to agree to a managed move, especially in fear of a permanent exclusion, and the school will do everything it can to ensure that the transition is as smooth as possible.

4.6 Alternative Provision

Occasionally it may be appropriate for alternative education arrangements to be made for students. The Headteacher in consultation with the Governing body has the power to direct a pupil off-site for education to improve their behaviour.

Prior to any alternative provision being made, parents will be informed of the decision in writing and provided with specific details of the placement including arrangements of the review process.

Any such arrangements will be reviewed on an individual basis, therefore, the length of time a pupil spends in alternative provision will depend on what best supports the pupil's needs and potential educational attainment.

Yesodey Hatorah understands that looked-after children and young people may be more susceptible to having behavioural problems due to additional problems they may face at home. We work in conjunction with all relevant childcare authorities to support looked-after children and try every possible means of keeping them in school. Before any decision to exclude is made, the school will:

- consult the LA about alternative options to support a looked-after pupil
- consult the LA about what alternative provision will be available if the pupil is excluded
- involve the child's social worker as early as possible to help the school avoid exclusion
- work with the foster carer to improve the pupil's behaviour.

4.7 Pupils with special educational needs or a disability (SEND)

Pupils with SEN

Our school's full SEN provision is outlined in our **special educational needs policy**. We work hard to accommodate students who have behavioural difficulties or difficulties with elements of social interaction as part of their SEN. The school will try every practical alternative to exclusion, but there may be some cases where it cannot be avoided.

If a permanent exclusion is made, the Headteacher will use the time between the initial decision and the governing body's review to see whether a change of circumstances might enable the school to withdraw the exclusion. It may be the case that more support is needed for the pupil, or that it is in the child's best interest that their statement be changed to name a different school, in which case the school will work with the LA and the child's parents or carers to make the transition as smooth as possible.

Pupils with a disability

If a pupil with a disability is under consideration for exclusion, the Headteacher will ensure that all other possible outcomes have been tried. To justify excluding a pupil with a disability for a reason related to their disability, there must be material and substantial reason. The erosion of order and discipline in the school may be material and substantial justification, but only if reasonable adjustments have been made for the pupil's disability. You can find more information on reasonable adjustments in our **school accessibility plan**.

4.8 Ethnicity

Yesodey Hatorah does not discriminate against any person and our school ethos is one of inclusion, equality, and diversity. If any person feels that they have been discriminated against due to their ethnicity they may make a formal complaint to the school following the process outlined in our **school complaints procedure**.

5. Definition

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.

6. Roles and responsibilities

6.1 The Headteacher

Informing parents

The Headteacher will immediately provide the following information, in writing, to the parents of an excluded pupil:

- › The reason(s) for the exclusion
- › The length of a fixed-term exclusion or, for a permanent exclusion, the fact that it is permanent
- › Information about parents' right to make representations about the exclusion to the Governing Body and how the pupil may be involved in this
- › Where there is a legal requirement for the Governing Body to meet to consider the reinstatement of a pupil, and that parents have a right to attend a meeting, be represented at a meeting (at their own expense) and to bring a friend

The Headteacher will also notify parents by the end of the afternoon session on the day their child is excluded that for the first 5 school days of an exclusion, or until the start date of any alternative provision where this is earlier, parents are legally required to ensure that their child is not present in a public place during school hours without a good reason. Parents may be given a fixed penalty notice or prosecuted if they fail to do this.

If alternative provision is being arranged, the following information will be included when notifying parents of an 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 pupil to identify the person they should report to on the first day

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 exclusion, in which case the information can be provided with less than 48 hours' notice with parents' consent.

Informing the Governing Body and local authority

The Headteacher will immediately notify the Governing Body and the local authority (LA) of:

- › A permanent exclusion, including when a fixed-period exclusion is made permanent
- › Exclusions which would result in the pupil being excluded for more than 5 school days (or more than 10 lunchtimes) in a term
- › Exclusions which would result in the pupil missing a public examination

For a permanent exclusion, if the pupil lives outside the LA in which the school is located, the Headteacher will also immediately inform the pupil's 'home authority' of the exclusion and the reason(s) for it without delay.

For all other exclusions, the Headteacher will notify the Governing Body and LA once a term.

6.2 The Governing Body

Responsibilities regarding exclusions is delegated to a panel drawn from the Governing Body consisting of 3 governors.

The governing body has a duty to consider the reinstatement of an excluded pupil (see section 6)

Within 14 days of receipt of a request, the Governing Body will provide the secretary of state and the LA with information about any exclusions in the last 12 months.

For a fixed-period exclusion of more than 5 school days, the Governing Body will arrange suitable full-time education for the pupil. This provision will begin no later than the sixth day of the exclusion.

Provision does not have to be arranged for pupils in the final year of compulsory education who do not have any further public examinations to sit.

6.3 The LA

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

7. Considering the reinstatement of a pupil

A panel drawn from the Governing Body (the panel) will consider the reinstatement of an excluded pupil within 15 school days of receiving the notice of the exclusion if:

The exclusion is permanent

It is a fixed-term exclusion which would bring the pupil's total number of school days of exclusion to more than 15 in a term

It would result in a pupil missing a public examination

If requested to do so by parents, the panel will consider the reinstatement of an excluded pupil within 50 school days of receiving notice of the exclusion if the pupil would be excluded from school for more than 5 school days, but less than 15, in a single term.

Where an exclusion would result in a pupil missing a public examination, a panel drawn from the Governing Body will consider the reinstatement of the pupil before the date of the examination. If this is not practicable, the chair of the Governing Body (or the vice-chair where the chair is unable to make this consideration) will consider the exclusion independently and decide whether or not to reinstate the pupil.

The panel can either:

- Decline to reinstate the pupil, or
- Direct the reinstatement of the pupil immediately, or on a particular date

In reaching a decision, the panel will consider whether the exclusion was lawful, reasonable and procedurally fair and whether the Headteacher followed their legal duties. They will decide whether or not a fact is true 'on the balance of probabilities', which differs from the criminal standard of 'beyond reasonable doubt', as well as any evidence that was presented in relation to the decision to exclude.

Minutes will be taken of the meeting, and a record of evidence considered kept. The outcome will also be recorded on the pupil's educational record.

The panel will notify, in writing, the Headteacher, parents and the LA of its decision, along with reasons for its decision, without delay.

Where an exclusion is permanent, the 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 pupil's SEN are considered to be relevant to the exclusion
 - That, regardless of whether the excluded pupil has recognised SEN, parents have a right to require the LA 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 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 6 months of the date on which the discrimination is alleged to have taken place

8. An independent review

If parents apply for an independent review, the LA will arrange for an independent panel to review the decision of the Governing Body not to reinstate a permanently excluded pupil.

Applications for an independent review must be made within 15 school days of notice being given to the parents by the Governing Body of its decision to not reinstate a pupil.

A panel of 3 or 5 members will be constituted with representatives from each of the categories below. Where a 5-member panel is constituted, 2 members will come from the school governor category and 2 members will come from the Headteacher category.

- › 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
- › School governors who have served as a governor for at least 12 consecutive months in the last 5 years, provided they have not been teachers or Headteachers during this time
- › Headteachers or individuals who have been a Headteacher within the last 5 years

A person may not serve as a member of a review panel if they:

- › Are a member of the LA or Governing Body of the excluding school
- › Are the Headteacher of the excluding school, or have held this position in the last 5 years
- › Are an employee of the LA or the Governing Body of the excluding school (unless they are employed as a Headteacher at another school)
- › Have, or at any time have had, any connection with the LA, school, Governing Body, parents or pupil, or the incident leading to the exclusion, which might reasonably be taken to raise doubts about their impartiality
- › Have not had the required training within the last 2 years (see appendix 1 for what training must cover)

A clerk will be appointed to the panel.

The independent panel will decide one of the following:

- › Uphold the Governing Body's decision
- › Recommend that the Governing Body reconsiders reinstatement
- › Quash the Governing Body's decision and direct that they reconsider reinstatement (only when the decision is judged to be flawed)

The panel's decision can be decided by a majority vote. In the case of a tied decision, the chair has the casting vote.

9. School registers

A pupil's name will be removed from the school admissions register if:

- 15 school days have passed since the parents were notified of the exclusion panel's decision to not reinstate the pupil 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

Where an application for an independent review has been made, the Governing Body will wait until that review has concluded before removing a pupil's name from the register.

Where alternative provision has been made for an excluded pupil and they attend it, code B (education off-site) or code D (dual registration) will be used on the attendance register.

Where excluded pupils are not attending alternative provision, code E (absent) will be used.

10. Returning from a fixed-term exclusion

Following a fixed-term exclusion, a re-integration meeting will be held involving the pupil, parents, a member of senior staff and other staff, where appropriate.

The following measures may be implemented when a pupil returns from a fixed-term exclusion:

- Agreeing a behaviour contract
- Putting a pupil 'on report'
- Internal isolation

11. Monitoring arrangements

The Headteacher monitors the number of exclusions every term and reports back to the Governing Body. They also liaise with the local authority to ensure suitable full-time education for excluded pupils.

This policy will be reviewed by the Headteacher every year. At every review, the policy will be shared with the Governing Body.

12. Links with other policies

This exclusions policy is linked to our

- Behaviour policy
- Complaint Procedure
- SEN policy and information report

Appendix 1: Independent review panel training

The LA must ensure that all members of an independent review panel and clerks have received training within the 2 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 Bodies 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