**APPENDIX D**

EXCLUSIONS FROM SCHOOLS

The exclusion of a pupil is always a last resort and usually follows an attempt to modify a child’s inappropriate behaviour, however If there has been a physical attack exclusion may be the most appropriate immediate sanction. Fixed term exclusion may be seen as a positive opportunity for a ‘cooling off’ period in order to establish an objective view of the situation. All exclusions will follow statutory and County procedures

Exclusions and what you can do if your child is excluded from school.

*What is exclusion?*

When a pupil behaves extremely badly, or persistently causes serious disruption in school, the law allows the head teacher to ban the pupil from attending school. This is called *exclusion*. Exclusions are intended as a last resort in maintaining good discipline.

During the initial five days of a permanent exclusion or fixed period exclusion of six days or longer, the parents of the excluded pupil must ensure that he or she is not present in a public place during normal school hours without reasonable justification. This requirement applies whether or not the pupil is in the company of the parent. A failure to comply with this requirement is an offence. Parents can be prosecuted, or may be given a fixed period penalty notice of £50 if they fail to do this. The penalty payable increases to £100 if unpaid after 28 calendar days, and if this is still unpaid after 42 days the parent is subject to prosecution for the original offence.

If the exclusion is for more than one day the school is expected to make arrangements for excluded pupils to be set work to do at home and for the work to be marked. This applies both for fixed period and permanent exclusion until the 6th day following the headteacher’s decision being notified to parents. The LA (Local Authority) will be contacting you about the arrangements for education for pupils who have been permanently excluded. There is a legal requirement on schools to provide full-time education for pupils who are excluded on a fixed term basis for six days or longer. This requirement applies from the sixth day following the notification of permanent exclusion being issued.

If your child should be sitting a public examination whilst excluded you should contact the school as soon as possible. Every effort will be made to make arrangements so that the opportunity is not lost.

*How will I know if my child has been excluded?*

The school will contact you on the day of the exclusion to tell you your child has been excluded and the reasons why. Wherever possible you will be informed by telephone or in person. This will be followed by a letter within one school day.

*Are there different types of exclusion?*

There are only two types of exclusion that a headteacher may use:

1. FIXED PERIOD EXCLUSION

This is sometimes called ‘a suspension’ and is for a limited time. The headteacher must tell you how many days the exclusion is for at the beginning of the exclusion period and what the arrangements will be for setting and marking work for your child.

A pupil may be excluded more than once during an academic year but the total number of school days cannot be more than 45 in any academic year.

You have the right to tell the governing body what you think about the exclusion. This is called making representations. If the exclusion is fewer than 5 days, the governing body cannot direct re-instatement, but should convene a meeting to consider any representations from you.

If the exclusion is over 5 days but no more than 15 days, in a school term and you make representations, the governing body must review the fixed term exclusion and decide whether to reinstate the pupil or uphold the headteachers decision. Where no representations are made there is no need for the governing body to meet.

However, the governing body must review all fixed term exclusions of over 15 days in a school term, or where a pupil would miss a public examination.

You should be invited to attend the meeting and may be accompanied by a friend or representative. The LA should also be invited to send a representative. Meetings should take place within the following time scales:

|  |  |
| --- | --- |
| Length of Exclusion | Time scale |
| Over 5 school days, but less than 15 school days (a meeting need only be called if the parents make representations). | Between the 6th and 50th school day from the date of the exclusion. |
| Over 15 school days. | Between the 6th and 15th school day after the notice of exclusion. |
| Where the child will miss an opportunity to sit a public examination. | Where possible before that examination takes place. |

If the headteacher decides to extend a fixed term exclusion or, exceptionally, convert it to a permanent exclusion they must write again to the parent and you will again have the right to make representations to the governing body.

Pupils whose behaviour at lunchtime is disruptive may be excluded from the school premises for the duration of the lunchtime period. A lunchtime exclusion is a fixed period exclusion (equivalent to one half school day) and should be treated as such. Parents have the same right to be given information and to appeal. A lunchtime exclusion for an indefinite period, like any other indefinite exclusion, would not be lawful. Arrangements should be made for pupils who are entitled to free school meals. This may mean providing a packed lunch.

We, the LA, have no power to instruct a school to re-admit your child.

There is no legal right to a formal appeal against a fixed term exclusion.

2) PERMANENT EXCLUSION

# Consideration by the Governing Body

The governing body will meet to consider the exclusion between the 6th and 15th school day after the notification of the exclusion. (This does not include school holidays). You will be invited to attend this meeting. You can take a friend or legal representative with you or somebody to speak on your behalf. If you prefer to you may make your representations to the governors in writing. The LA should also be invited to send a representative to the meeting. The governors can instruct the headteacher to re-admit your child to the school.

After the meeting the governors must advise you and the LA of their decision within one school day of the meeting, giving their reasons.

The LA has no power to instruct a school to readmit a pupil.

If the governors confirm the permanent exclusion of your child they must advise you of your right to appeal to an independent appeal panel. You have this right even if you did not make representations to the governing body.

The LA will also write to you within three working days of the governing body meeting to confirm the details of your right of appeal.

(N.B. *The governing body can delegate some or all of its functions in respect of exclusions to a committee consisting of at least three governors and such a committee may be called the Discipline Committee).*

# Right of Appeal to an Independent Panel

If you want to appeal you must write to the clerk to the appeal panel within 15 school days of the governors’ decision. Your letter should explain the grounds of your appeal i.e. why you do not think that the decision is the correct one. Your appeal should be sent to:

The Clerk to the Independent Appeal Panel

PO Box 11

Chelmsford

CM1 1LX

The appeal panel meets to consider whether the child should have been excluded and whether he or she should be reinstated at the school.

As the remit of the panel does not include ‘clearing the pupils name’, details of an exclusion may not be lawfully deleted from the pupil record, if an exclusion is a matter of fact. But the governing body must 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 school record. Copies of the principal correspondence might be included and possibly minutes of the meeting to consider the exclusion and appeal panel hearings, if the governors and appeal panel respectively agree to this.

The appeal panel must meet within 15 school days after receiving your letter. You will be told as soon as possible when and where the hearing will take place.

Your appeal will be heard in private and the hearing will be as informal as possible.

If possible you should try to attend the hearing. If you do not attend, and do not inform the clerk that you are unable to get there, the Panel will consider your appeal in your absence. If you wish you may bring a friend or representative to put the case for you.

If you wish to present documents or raise matters that are not covered in your letter of appeal you should submit them to the Clerk to the Appeal Panel in good time before the hearing.

If you decide that you do not wish to appeal you should notify the Children’s Support Service at the LA of your decision in writing as soon as possible.

# At the Hearing

There will be at least three people on the Panel. A clerk will also be present to record the Panel’s decisions and to advise on law and procedures.

The Panel will have copies of your appeal, plus any statements or reports you sent in beforehand, together with information from the headteacher about the reasons for the exclusion.

Assuming you attend, the hearing will usually follow this pattern:

* The headteacher will explain the reasons for the exclusion. A representative of the governing body may also attend and be given the opportunity to make comments on behalf of the governing body.
* You, or your representatives, may ask questions. The Panel and the LA representative may also ask questions.
* You, or your representative, will be asked to present your case. You may call witnesses in support. (If you want to bring witnesses you must let the clerk know in advance).
* You may be asked questions by the Panel and by the school or LA representatives.
* The LA representative will make a statement.
* The school representative will summarise the case for exclusion.
* You, or your representative, will be given the opportunity to sum up.
* Both ‘sides’ and the LA representative will then be asked to leave the hearing.

The Panel will then consider all the information and evidence presented to it. It will weigh up, on the one hand, what is in your child’s interests and, on the other, the interests of the school, the staff and other pupils. The Panel will then decide whether your child should be

re-admitted. The Clerk to the Panel will write to you telling you of the decision and the reasons for it.

All Appeal Panels act independently and their decisions are binding.

What Happens About My child’s Education if The Exclusion is confirmed?

Once the appeal decision; or confirmation of your decision not to appeal is received by the LA; or the time limit for appeal is reached, if your child is still of compulsory school age

(5-16), the teaching provided by the Integrated Support Service will continue until a place is found for your child at another school. It is your responsibility as a parent to find another school place, but Children’s Support Service will advise you and work with you to achieve this.

You should bear in mind that transport to another school will be provided only if the school is the nearest school that is able to admit your child and it is over three miles from your home address by the shortest available walking route.

*Where can I get help or advice?*

For advice on the exclusions and appeal procedure and what happens when the exclusion procedure is complete you should contact:

Essex County Council

Children’s Support Service

Schools, Children and Families Directorate

PO Box 47

County Hall

Chelmsford

CM1 1LD Telephone: 0845 6037627

You may also contact the Advisory Centre for Education (ACE) on their helpline number:

0207 7049 822

*This document can be made available in alternative formats on request*.