

Mental health and student exclusions

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Top tips

1. Be clear as to your duties to students with mental health issues. All schools have a statutory duty to promote the welfare of their students which includes preventing impairment of children's health or development and taking action to enable all children to have the best outcomes. Make sure you have a mental health policy or reference to mental health embedded in other related policies. It will help to be able to refer to this when an exclusion is challenged on mental health grounds.
2. Identify whether the student has a diagnosed mental health issue. Check any previous school information or notes on application forms. If there is reference to certain issues look to find out whether they have been formalised in any way. Are they fact or opinion? If there is a diagnosed condition work closely with the parents, student and the medical practitioner to understand the student's needs and to get as full a picture as possible. Obtain consent from the parents/student as appropriate, to liaise with any advisors, including seeing any reports obtained privately. Make it clear that this is a team effort to give the student the best possible chance of success at school.
3. The school is not a diagnostician for students and cannot impute a mental health condition. In the absence of any formal diagnosis schools should respond to the behaviour that is exhibited at school. Is there any evidence of bullying or any underlying worries at school that may be contributing to the problems? Has the behaviour patterns changed? The fact that parents feel that a child has mental health issues at home may not be evidenced at school and requested adjustments may not be required. This needs to be reviewed and looked into.
4. Be careful about any notes that you keep. Make sure that your records are contemporaneous, accurate, measured and factually correct. Do not give any opinions. Keep a clear rationale for decisions made, whether it is to make interventions or whether or not to make adjustments. It is likely that a Subject Access Request will be made if a permanent exclusion is challenged. Your records therefore will become evidence.
5. The school has a duty to make reasonable adjustments where a student has a special educational need or a disability. Some mental health conditions can be regarded as a disability. Check whether the condition they are diagnosed with or is exhibiting would fall under mental health diagnoses e.g. anxiety. Could it meet the disability threshold? – [a long term (12 months) adverse and substantial impairment in their ability to carry out normal day to day activities.] Whether the mental health issue would qualify as a disability is judged on a case by case basis e.g. short term exam stress would not meet the criteria.
6. Decide what interventions are appropriate and whether reasonable adjustments are required. Agree any measures with the student

and parent. If the parents are not engaged, keep them informed anyway so there is no claim that they did not know what the school was doing or what the school had decided to change. Involve third party assistance through the Local Authority/ third party resources. If the interventions require additional financial resource to be effective, cost the resource and request additional funding where possible. Reasonable adjustments may not be possible where the cost of providing them is too high but it is appropriate that the school seeks to find out whether funding is available.

7. Where a plan has been implemented make sure it is followed. Make sure it is reviewed at appropriate intervals and if it changes for any reason keep notes as to why and what the change is intended to achieve.
8. Where changes in medication/ new initiatives are introduced, have a timescale documented for improvement. How long is it anticipated that it will take for medication to bring about change? What is a reasonable timeframe for the student to adjust to a new regime?
9. Make it clear to the student and the parents that any adjustments are to facilitate the student to change their behaviour. They are not an excuse for bad behaviour and the behaviour policy will continue to apply. On the basis that irrespective of the adjustments the student has breached the behaviour policy the stated sanctions will apply.
10. If a decision is made to permanently exclude, check the measures the school has taken: how long have the school been trying to help the student engage properly at school? Where are the assessments and records? Were the interventions followed through? Has the plan been reviewed appropriately? Has any external advice been followed? Have the parents/student been kept up to date with the situation and will the exclusion come as a surprise? Consider these factors with an eye to a possible appeal process, either an IRP or a disability claim.
11. Consider carefully the grounds on which the permanent exclusion is to take place. Is it the right decision for the student? Is the student a danger to him/herself or others? Is their behaviour such that it is seriously harming the education of the student or others? Does the mental health issues provide mitigation for the behaviour or have sufficient measure been taken that the behaviour is in spite of the interventions that have been made?

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