



THE **PARK** WAY

'We aim to empower young minds, create opportunities and deliver dreams'

PHYSICAL RESTRAINT AND REASONABLE FORCE POLICY

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Signature **Mr Juan Delgado** **Principal** **Date: 17/06/2019**

Signature **Mr Raj Lall** **Chair of LAB** **Date: 17/06/2019**

Principles

The aim of the Physical Restraint and Reasonable Force Policy is to clarify the powers of teachers and other staff in the academy to use reasonable force to prevent students committing a crime, causing injury, damaging property or "prejudicing the maintenance of good order and discipline".

The powers of academy staff to use physical force were clarified by the Education Act of 1996. The law is now also governed by the Education and Inspections Act 2006. The Department for Children, Schools and Families (DCSF) published in November 2007 advice on good practice related to the use of force – "The Use of Force to Control or Restrain Students". This was superseded on September 10th 2012 by non-statutory guidance to clarify the use of force in schools in England. Key points

1. School staff have a legal power to use force and lawful use of the power will provide a defence to any related criminal prosecution or other legal action.
2. Suspension should not be an automatic response when a member of staff has been accused of excessive force.

Consistency Of Treatment And Fairness

The Governing Body is committed to ensuring consistency of treatment and fairness. It will abide by all relevant equality legislation, including the duty to make reasonable adjustments for the disabled. The governing body is aware of the guidance on the Equality Act issued by the Department for Education.

Summary

Section 550A of the 1996 Act (as re-stated by section 93 of the 2006 Act) allows teachers – and those authorised by the Executive Principal to have control or charge of students – to use such force as is reasonable in the circumstances to prevent a student from doing, or continuing to do, any of the following:

- Committing a criminal offence (or behaving in a way that would be a criminal offence if the student were not under the age of criminal responsibility)
- Injuring themselves or others
- Causing damage to property (including the student's own property)
- Engaging in any behaviour prejudicial to maintaining good order and discipline at the Academy or among any of the students

1 These powers may be used where a student is on the academy premises or otherwise in the lawful control or charge of a member of staff (such as on a academy visit).

Force must NEVER be used as a punishment. Force can be used only to control or restrain a student when justified under one of the above headings.

Under certain circumstances, reasonable force may be used to search students for weapons (but not for any other items). Staff members are advised NOT to use this power if at all possible; instead the police should be involved. Searches are undertaken with two members of staff, one of whom will usually be a member of the SAFE team.

Guidelines

In summary, force may be used ONLY where

- 1 - There is a certain **type** of incident
- 2 - The use of force is **reasonable** in the circumstances and
- 3 - the *degree* of force is reasonable; that is, the force is **proportionate**

1 Types of Incident

There is no legal definition of the situations in which the use of force might be reasonable, though any incident must fall into one of the categories listed in the summary, above. As such, there is a variety of situations where the use of force might be appropriate to control or restrain a student. For example:

- A student attacks a member of staff (self-defence)
- A student attacks a fellow student; or students are fighting
- A student is engaged in, or on the verge of committing, deliberate damage or vandalism to property
- A student is causing, or at risk of causing, physical injury – by accident, by rough play, or by misuse of dangerous materials or objects
- A student is causing, or at risk of causing, damage to property – by accident, by rough play, or by misuse of dangerous materials or objects
- A student is running in a corridor or on a stairway such that they are likely to injure themselves or others; this is particularly likely to be the case if the area is crowded with smaller children
- A student absconds from a class or tries to leave the academy at an unauthorised time (NB. This will only apply if the student's leaving might itself lead to a risk of injury, property damage or serious disruption)

- A student is behaving in a way that is seriously disrupting a lesson, academy event or academy visit
- A student is behaving in a way that is seriously compromising good order and discipline
- A student persistently refuses to obey a reasonable instruction to leave a classroom.

Assistance should be sought in such circumstances.

2 The Use of Force is Reasonable

In addition to the general power to use reasonable force described above, the Principal and SAFE team staff can use such force as is reasonable given the circumstances to conduct a search for the following prohibited items

- Knives and weapons
- Alcohol
- Illegal drugs
- Tobacco and cigarette papers
- Fireworks
- Pornographic images
- Any article that has been or is likely to be used to commit an offence, cause personal injury or damage to property

Force cannot be used to search for items banned under the school rules.

There is no legal definition of when it is reasonable to use force. It will always depend on all the circumstances of the case.

The use of force can be regarded as reasonable only if the circumstances of the particular incident warrant it. If the particular circumstances do not warrant the use of physical force, any use of force will be unlawful. Where a situation can be resolved without force, force should not be used. The use of force must normally be a last resort. Though decisions will often need to be made quickly, a number of considerations should be borne in mind when deciding whether the use of force is reasonable in a particular situation.

- The greater the potential for harm (e.g injury, property damage or disruption) without physical intervention, the more likely that force is justified
- The less likely that the situation can be resolved by means other than the use of force, the more likely that force is justified.
- The more risky the resolution of the situation by means other than physical intervention, the more likely that force is justified.

It follows that physical force could not be justified to prevent a student from committing a trivial misdemeanor (since the potential for harm is low). Where the aim is to maintain good order and discipline, and there is no direct risk to people or property, force will be necessary only very rarely.

However, it also follows from the above that, where there is an immediate risk of serious injury – for example a student is out of control and about to run onto a busy road, hit someone, or throw a heavy object in a crowded classroom – trying first to resolve the situation by non-physical intervention would clearly be inappropriate. In urgent situations, force may need to be used immediately.

In the most extreme circumstances, there may be no choice but to risk some injury to a student in order to avoid a greater harm.

3 – The Force Used is Proportionate

This is closely related to the considerations relating to whether the use of force is reasonable. If a teacher decides that force is necessary, he or she must then ensure that, in all the circumstances of the case, the degree of force used is also reasonable.

The degree of force employed must be in proportion to the circumstances of the incident and the seriousness of the behaviour or the consequences it is intended to prevent. Any force used should be the minimum needed to achieve the desired result.

The teacher must bear in mind what it is that the force is being used to try to prevent, and use no more force than is necessary to ensure that result.

If, for example, two students are fighting (and some physical intervention is deemed to be necessary) it may be sufficient to physically interpose between them. It would have to be a serious situation to require the pushing of one student away from another, and only in the most serious cases, where a student is out of control, might the use of a restrictive hold be necessary. Likewise, the degree of force needed to be effective will depend upon the age and other physical characteristics of the student (see the section below, "Considering the Individual Involved").

4 - In Practice

Management by Staff of Disruptive Behaviour Avoiding The Use Of Force

Physical intervention should never be used as a substitute for good behavioural management in accordance with the Academy Behavioural Policy. All teachers aim to employ strategies and techniques for dealing with difficult students and situations to diffuse and calm a situation.

In non-urgent situations, staff should always try and deal with a situation through other strategies before using force. Their actions should be aimed at reducing the likelihood of situations arising where force might be needed.

As the key issue is establishing good order, any action which could exacerbate the situation needs to be avoided. The possible consequences of intervening physically, including the risk of increasing the disruption or actually provoking an attack, need to be carefully evaluated.

Staff should always communicate with the student calmly, and in a non-threatening manner. Staff should never give the impression that they have lost their temper, or are acting out of anger and frustration, or to punish the student.

5 - Managing the Use of Force

The member of staff should consider carefully whether, and if so when and in what form, physical intervention should be used. Before intervening physically a member of staff should, wherever practicable, tell the student who is misbehaving to stop, and what will happen if he or she does not. There should be a clear oral warning to the student that force may have to be used.

Once force is employed, the member of staff should continue attempting to communicate with the student throughout the incident and should make it clear that physical contact or restraint will stop as soon as it ceases to be necessary.

6 - Application of force

Physical intervention should only be used according to the above considerations. The intervention can take several forms. It might involve:

- Physically interposing between students
- Blocking a student's path
- Holding
- Leading a student by the hand or arm
- Shepherding a student away by placing a hand in the centre of the back; or,
- (In extreme circumstances only) using more restrictive holds – specific expertise may be necessary

Staff should always avoid touching or holding a student in a way that might be considered sexually inappropriate.

7 - Seeking Assistance

In certain situations, a member of staff should not intervene in an incident without help. For example, when dealing with an older or physically large student, or more than one student, or if the member of staff believes he or she may be at risk of injury if he or she intervenes, the member of staff should – unless it is an emergency – avoid physical intervention without assistance. In such circumstances the member of staff should remove other students who may be at risk, and summon assistance from a colleague or colleagues. The member of staff should inform the offending student(s) that help has been sent for. Until assistance arrives the member of staff should continue to attempt to defuse the situation orally, and try and prevent the incident from escalating. In the event that police involvement is deemed necessary it must be the Principal who takes such responsibility.

8 - Considering the Individual Involved

The “circumstances” to be considered in deciding whether the use of force is reasonable and what *degree* of force is reasonable will depend upon the individual student involved. Considerations will include the age, sex, level of understanding and character of the student. Physical intervention to enforce compliance with staff instructions is likely to be increasingly inappropriate with older students.

It is also particularly important for staff to be mindful of the needs of students with Special Educational Needs (SEN), behavioural conditions, medical conditions, disabilities, and other vulnerabilities.

Risk assessments are essential for individuals whose special needs are associated with:

- Being less responsive to verbal communication
 - Physical disability
 - Physical fragility caused by, for example, haemophilia, brittle bone syndrome or epilepsy
- Dependence on equipment, such as wheelchairs, breathing tubes or feeding tubes

These should be carried out by the Designated Safeguarding Lead, SAFE team or Special Needs teams and communicated to staff.

The nature of the individual(s) involved will also be highly relevant in the context of physical contact in other situations (see section “Physical Contact with Students in Other Circumstances” below)

9 - After The Event

After the event, the student involved may be subject to separate disciplinary procedures. Strategies should be developed to help avoid such incidents in future. It may also be necessary to involve external agencies; perhaps Local Authority children's services, or the police if a crime may have been committed.

10 - Recording Incidents

It is important that there is a detailed, contemporaneous, written report made of any occasion (except minor or trivial incidents) where force is used. It may help prevent any misunderstanding or misrepresentation of the incident, and it will be helpful should there be a complaint. Immediately following any such incident, the member of staff concerned should tell the Principal and provide a written report as soon as possible afterwards. That report should include:

- The name(s) of the student(s) involved, and when and where the incident took place
- Details of whether any of the students involved were vulnerable for SEN, medical or social reasons
- The name(s) of the member of staff (s) directly involved
- The name of any other staff or students who witnessed the incident
- The reason that force was necessary (e.g. to prevent injury to a student or member of staff)
- How the incident began and progressed, including details of the student's behaviour, what was said by each of the parties, the steps taken to defuse or calm the situation (including warnings that force might be used), the type of force used, the degree of force used, and for how long
- The student's response and the outcome of the incident
- Details of any injuries suffered and any medical attention sought
- Details of any distress suffered by any party, and whether any post-incident support was provided
- Details of further disciplinary action against students involved
- Details of any damage to property
- When parents were informed, and what views they expressed (see below)
- Whether information about the incident has been shared with staff or external agencies (e.g. the police)
- Whether any complaints have been lodged

Staff may find it helpful to seek advice from a senior colleague or a representative of their professional association when compiling a report. They should also keep a copy of the report. Incidents involving the use of force can cause the parents of the student involved great concern. It is academy policy to inform parents of an incident involving their child, and give them the opportunity to discuss it. The Principal will need to consider whether that should be done straight away or at the end of the academy day and whether parents should be told orally or in writing.

11 - Complaints

Involving parents when an incident occurs with their child should help to avoid complaints. It may not prevent all complaints, however, and a dispute about the use of force by a member of staff could lead to an investigation, either under disciplinary procedures or by the Police and Social Services Department under Child Protection procedures.

The possibility that a complaint might result in a disciplinary hearing or criminal prosecution, or in a civil action brought by a student or parent, cannot be ruled out. In such circumstances, members of staff can expect appropriate support from the Academy Governing Body and senior management but should contact their professional association.

In those circumstances it would be for the disciplinary panel or the court to decide whether the use and degree of force was reasonable in all the circumstances. The panel or court would have regard to the provisions of section 93 of the 2006 Act, as detailed above. It would also be likely to

take account of the Academy's Physical Restraint and Reasonable Force Policy, and whether the policy had been followed.

12 - Training

Staff will be provided with training in the most effective use of force and restraint techniques. This will take place every two years. Normally, only those techniques in which staff have been trained should be used. There will be periodic updates and references made to key elements of the policy throughout the year as appropriate.

13 - The Use of Force In Other Circumstances

Physical Contact with Students in Other Circumstances

There are occasions other than those covered by section 93 or the 2006 Act when physical contact with a student may be proper or necessary. Some physical contact may be necessary to demonstrate exercises or techniques during PE lessons, sports coaching or Technology lessons, or if a member of staff has to give first aid. Young children and children with special educational needs may need staff to provide physical prompts or help. Touching may also be appropriate where a student, particularly a younger child, is in distress and needs comforting. Staff will use their own professional judgement when they feel a student needs this kind of support, but should bear in mind the terms of this policy.

There may be some children for whom touching is particularly unwelcome. For example, some students may be particularly sensitive to physical contact because of their cultural background or because they have been abused. Staff will receive information about these children, usually from the Designated Safeguarding Lead or Special Needs team.

Physical contact with students becomes increasingly open to question as students reach and go through adolescence, therefore staff should bear in mind that innocent and well-intentioned physical contact can sometimes be misconstrued.

Physical Contact with Parents or Other Visitors to the Academy

An adult visitor (whether the parent of a student or otherwise) may need to be removed from the academy premises in the event of sustained unreasonable behaviour, threats of physical violence or aggressive verbal abuse towards staff or students. Section 547 of the Education Act 1996 gives authority for the removal of any visitor "causing or permitting nuisance or disturbance to the annoyance of [those lawfully using the academy]".

In all but the most extreme and immediate circumstances it is the role of the police to remove such individuals (the police have the power to do so, despite the Academy being private property, Section 547). Where possible, the police should be called by the Principal or Head of School in any circumstances where removal is deemed likely.

Section 547 does also give this same power to staff for these circumstances, though only to those authorised by the Governing Body. Generally, only members of the Senior Team are so authorised. The actual physical removal by an academy employee of an adult visitor to

the site should be the very last resort; when the employee is faced with an immediate threat to the safety of academy personnel or property. However, where that is the case, the points made in this policy about the circumstances in which force may be used and its proportional use apply.

The Academy and the police are united in shared values of crime prevention, crime detection and crime reduction. Continued co-operation between the police and academy staff is vital in circumstances where an adult may need to be removed from the site.

