



Department
for Education

Behaviour and discipline in schools

Guidance for governing bodies

July 2013

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Summary

About this guidance

1. This is statutory guidance from the Department for Education. It explains why maintained schools must have a behaviour policy, what it must cover and the role of the governing body and headteachers in shaping their school's behaviour policy.
2. We use the term 'must' when the person in question is legally required to do something and 'should' when advice is being offered.

Expiry or review date

This guidance will next be reviewed in spring 2014.

What legislation does this guidance refer to?

- Education Act 2002
- Education and Inspections Act 2006

Who is this advice for?

This advice is for:

- This guidance is for **governing bodies of maintained schools**
- For the purposes of this advice references to "maintained school" means a community, foundation or voluntary school, community or foundation special school. It also includes Pupil Referral Units and non-maintained special schools.

Key points

- Every school must have a behaviour policy (which must include the school rules).

The role of governors

1. Under Section 88(1) of the Education and Inspections Act 2006 (EIA), governing bodies must ensure that policies designed to promote good behaviour and discipline on the part of its pupils are pursued at the school.
2. Section 88(2) of the EIA requires the governing body to:
 - make, and from time to time review, a written statement of general principles to guide the headteacher in determining measures to promote good behaviour and discipline amongst pupils; and
 - notify the headteacher and give him or her related guidance if the governing body wants the school's behaviour policy to include particular measures or address particular issues.
3. When carrying out the functions under Section 88(2), the governing body must have regard to guidance issued by the Secretary of State. Paragraphs 6-11 below provide this statutory guidance.
4. Before making their statement of principles, the governing body must consult (in whatever manner they think appropriate) the headteacher, school staff, parents¹ and pupils.
5. The Governors Handbook provides information on governors' other legal duties. See the Associated Resources section below for a link to the guide.

What must the governing body do?

6. The governing body must provide clear advice and guidance to the headteacher on which he/she can base the school behaviour policy.
7. This is particularly important in respect of teachers' powers to search, to use reasonable force and to discipline pupils for misbehaviour outside school. Although these powers may look straightforward in legal terms, they are not always fully understood by staff, pupils and parents, and staff can feel particularly vulnerable to challenge if they use them.
8. Clear advice and guidance from the governing body, which feeds directly into the behaviour policy, will help members of staff better understand the extent of their powers and how to use them. It will also help ensure that staff can be confident of the governing body's support if they follow that guidance.
9. While it is for each governing body to decide their own principles, we would always

¹ References to parent or parents are to fathers as well as mothers, unless otherwise stated.

expect the governing body to notify the headteacher that the following should be covered in the school behaviour policy:

- Screening and searching pupils (including identifying in the school rules items which are banned and which may be searched for);
- The power to use reasonable force or make other physical contact;
- The power to discipline beyond the school gate;
- Pastoral care for school staff accused of misconduct; and
- When a multi-agency assessment should be considered for pupils who display continuous disruptive behaviour.

10. In providing guidance to the headteacher, the governing body must not seek to hinder teachers' powers by including 'no searching' or 'no contact' policies, nor to restrict their power to discipline pupils for misbehaviour outside of school.

11. Governing bodies will also wish to consider their duty under section 175 of the Education Act 2002 requiring them to make arrangements to ensure that their functions are carried out with a view to safeguarding and promoting the welfare of children and their general duty to eliminate discrimination under section 149 of the Equality Act 2010.

Screening and searching and the power to use reasonable force

12. Separate guidance is available on searching and on the use of force and governing bodies should draw on this to inform their guidance to the headteacher. See Associated Resources section for a link to these documents.

The power to discipline beyond the school gate

13. Disciplining beyond the school gate covers the school's response to non-criminal bad behaviour and bullying which occurs anywhere off the school premises and which is witnessed by a member of staff or reported to the school. The governing body must be satisfied that the measures proposed by the headteacher are lawful.

14. The governing body will need to ask the headteacher to consider what the school's response should be to:

- any bad behaviour when the child is:
 - taking part in any school-organised or school-related activity or
 - travelling to or from school or
 - wearing school uniform or

- in some other way identifiable as a pupil at the school.
- or, misbehaviour at any time, whether or not the conditions above apply, that:
 - could have repercussions for the orderly running of the school or
 - poses a threat to another pupil or member of the public or
 - could adversely affect the reputation of the school.

15. In all of these circumstances the headteacher should also consider whether it is appropriate to notify the police or anti-social behaviour coordinator in their local authority of the actions taken against a pupil. If the behaviour is criminal or poses a serious threat to a member of the public, the police should always be informed. In addition, school staff should consider whether the misbehaviour may be linked to the child suffering, or being likely to suffer, significant harm. In this case the school staff should follow its safeguarding policy.

Pastoral care for school staff

16. Employers should not automatically suspend a member of staff who has been accused of misconduct, pending an investigation. The governing body should instruct the headteacher to draw on the advice in the 'Dealing with Allegations of Abuse against Teachers and Other Staff' guidance when setting out the pastoral support school staff can expect to receive if they are accused of misusing their powers. See the Associated Resources section for a link to this document.

Further sources of information

Associated resources (external links)

- [Education Act 2002](#)
- [Education and Inspections Act 2006](#)

Other departmental advice and guidance you may be interested in

- [Governors Handbook](#)
- [The Department's advice on the Equality Act 2010](#)
- [Use of Reasonable Force – advice for headteachers, staff and governing bodies](#)
- [Screening, Searching and Confiscation – advice for headteachers, staff and governing bodies](#)
- [Safeguarding](#)



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