COGNITA

Use of Reasonable Force including Pupil Searching and Confiscation Policy

SPAIN

September 2024

1 Policy Statement

1.1 The school complies with all statutory requirements, as amended, from time to time. The principles of 'reasonableness' and 'proportionality' are used at all times in respect of the use of force and restraint.

2 Purpose

2.1 We use this policy to protect every person from harm, to protect all pupils against any unnecessary, inappropriate, excessive or harmful physical intervention, and to ensure all of our staff, visitors, volunteers and third parties know what constitutes appropriate use.

2.2 We are fully aware of, and are fully committed to, the school's legal duty to make reasonable adjustments for children with special educational needs and/or disabilities. Staff should always act in compliance with our policy on behaviour and discipline.

2.3 We aim that this policy makes clear when such force might be used, so that all our parents, staff and pupils understand our policy and practice and can support us in the unlikely event that this form of control will be required.

2.4 We ensure that pupils have a right to respect in that they expect a reasonable level of privacy (European Convention on Human Rights), so any interference with this right by the school must be justified and reasonable.

2.5 Our school staff have a power to use 'reasonable' force to protect children and others from harm. Correct and lawful use provides a defence to any related criminal prosecution.

2.6 When a member of staff has been accused of using excessive force, suspension of such staff member may be agreed after a due investigation but not as an automatic response.

2.7 Our Senior Leadership Team will support staff when they use this power, including any person whom the Headteacher has put in charge temporarily of pupils, such as unpaid volunteers or parents accompanying our children on a school organised visit.

3 Introduction

3.1 Use of physical force is not usually necessary in our schools. However, should this ever be required then it is the aim of this policy to clarify the power of teachers and other staff who have lawful control or who are in charge of pupils.

3.2 The provision applies when a teacher or authorised person is on the school premises and when the person has lawful control or charge of the pupils elsewhere; for example, on a school trip.

This policy does not authorise the use of corporal punishment or threat of corporal punishment in any circumstances and nor is it intended to encourage the use of inappropriate force**.** Our school does not permit the use, or threatened use, of corporal punishment during any activity, whether on or off the school premises, under *any* circumstances.

3.3 We will never threaten any punishment which could adversely affect a child's emotional well-being.

3.4 There are a variety of circumstances in which reasonable restraint may be appropriate or necessary in order to control or restrain a pupil. Wherever possible, if this is anticipated (situations where harm to others has occurred is likely to occur)appropriate steps should have been taken beforehand to plan appropriate responses, and a safeguarding risk assessment completed. A person will not be taken to have used corporal punishment (and therefore will not have committed an offence), where physical intervention was taken for the purposes of averting immediate danger of personal injury to any person (including the child) or to manage a child's behaviour if absolutely necessary.

3.5 There is no legal definition of when it is reasonable to use force.

3.6 It is not illegal to touch a pupil. There are occasions when physical contact, other than reasonable force, is appropriate and necessary. For example, holding the hands of the child at the front/back of the line when walking in a group, to comfort a distressed pupil (kissing a pupil is not permitted), to congratulate or praise a pupil, to demonstrate a musical instrument, exercises during PE or sports coaching, and to give first aid. If any member of staff is unclear about this, they should discuss it further with their Headteacher or Child Protection and Wellbeing Coordinator in order to alleviate any doubt or uncertainty. All staff should follow the Staff Code of Conduct and applicable legal regulations.

4 What do we mean by reasonable force?

4.1 This term refers to a range of actions used by most teachers at some point in their careers which involves a degree of physical contact with children.

4.2 Force is usually used to control or restrain. For example, guiding a pupil to safety by the arm or more extreme circumstances such as breaking up a fight, or where a pupil needs to be restrained to prevent injury or violence.

4.3 What we mean by 'reasonable' is using no more force than is needed.

4.4 Control is usually about passive physical contact such as standing between two pupils or blocking a pupil's path, or indeed guiding them out of the room by leading them by the arm or wrist.

4.5 Restraint refers to holding back physically or bringing a pupil under control. We only use this strategy in more extreme situations where physical intervention is the only option to keep the child/others safe.

4.6 We always try to avoid acting in a way that might cause injury, but in highly extreme cases this may not always be possible.

4.7 The decision as to whether or not to intervene physically is down to the professional judgement of the staff member concerned and will always depend on the individual circumstances.

4.8 Reasonable force can be used to prevent pupils from hurting themselves or others, from damaging property, or from causing disorder. It is always proportionate to the circumstances in accordance with law and will be dependent on the age of the pupil.

4.9 Wherever possible, staff should have exhausted the full range of behaviour management strategies in the Behaviour Policy which are aimed at preventing the situation from reaching the point at which physical intervention becomes necessary. Restraint is a last resort after all efforts to defuse the situation have been taken.

4.10 There are many alternative strategies which should be used by staff initially in situations, such as:

- An instruction is repeated until the pupil complies;
- Use of a distractor such as a whistle to interrupt behaviour long enough for verbal methods to take effect;
- Withdrawal of attention from the rest of the class/group when they act as an audience;
- Avoiding confrontation;
- Use of humour until tempers have been alleviated; and
- Other sanctions outlined in our Behaviour Policy.

5 When might we use reasonable force?

In scenarios where various interests converge, the child's safety and that of their peers prevails over the child's right to privacy.

Examples of situations where we might use reasonable force:

- To remove children from the classroom if they have refused to follow an instruction to do so in the interest of the safety of others and/or the child themselves.
- To prevent a pupil behaving in a way that disrupts a school event or on a school trip or visit.
- To prevent a pupil leaving a classroom/area where allowing them to leave would risk their safety or lead to behaviour that disrupts the behaviour of others.
- To prevent a pupil from physically harming a member of staff or another pupil, or to stop a fight in the playground.
- To restrain a pupil at risk of harming themselves through physical/emotional outbursts ie self harming as a coping strategy..

5.1 We never use force to discipline because to do so would be unlawful.

6 Power to Search and Confiscate from Pupils

6.1 School staff can search a pupil for any item if the pupil agrees e.g. by asking them to turn out their pockets or by asking them if the teacher can look in their bag or locker. An appropriate disciplinary sanction can be applied if the pupil refuses to cooperate with a search for a banned item, as laid out in the school's Behaviour Policy, following applicable regulations.

6.2 We have powers to search pupils or their possessions without consent where there is good reason to do so, but we will always seek to carry out any such search with the pupil's consent.

6.3 Article 20 of the *Ley Orgánica 4/2015 de Protección de la Seguridad Ciudadana* states that only law enforcement officers can carry out body searches and screening. If consent is not given, searches of a child's belongings and/or clothing is not permitted and could be considered an infringement of the right to privacy, unless there is a justified reason and a protected interest which prevails over the pupil's right to privacy, that is if there are reasonable grounds to suspect that the pupil has infringed school regulations or the law.

6.4 Therefore staff will only search without prior consent where there are reasonable grounds for suspecting a pupil may have infringed school regulations or the law, such as holding knives and anything that could be used as a weapon, alcohol, illegal drugs, stolen items, tobacco and cigarette papers, oral tobacco products, fireworks, pornographic images or any other article which has been or is likely to be used to commit an offence, cause personal injury or damage to property.

6.5 If we have just cause to believe that the child has a prohibited item hidden on their person that could cause harm to themselves or others, and the child refuses to provide it, then we have the option to contact their parents/carers and invite them to collect their child. The child will remain in a safe space, under supervision until their parents/carers arrive for collection. Their items (e.g. bags) will be removed from them.

6.6 Staff can use the power to search pupils or their possessions under the specific authority of the Headteacher only, following legal regulations.

6.7 Items which the Headteacher or authorised staff have banned and can search for are specified in the school rules contained within the school's Behaviour Policy, and the Drug and Alcohol Policy. It is always made clear in communications to parents what items are banned.

6.8 Staff can confiscate any prohibited item found as a result of a search, as well as any items, however found, which they consider harmful or detrimental to school discipline.

6.9 Searching without consent can only be used if the member of staff is the same sex as the pupil being searched and in the presence of a witness staff member, following legal requirements.

6.10 Only outer clothing that is not worn next to the skin can be requested to be removed.

6.11 No intimate search is permitted by school staff. No searches will take place on the child's body or under clothing.

6.12 Staff can use reasonable force to conduct a search for the prohibited items listed above.

6.13 Controlled drugs must be delivered to the police as soon as is reasonably practical. Stolen items will be returned to their rightful owner, or to the police, as appropriate.

6.14 Alcohol, tobacco, cigarette papers , lighters and fireworks can be retained or disposed of. Parents will be informed about the confiscated item.

6.15 We can search to tackle cyber-bullying, Pornographic images may be deleted (witnessed) unless the possession of such constitutes a specified offence (images of child abuse, or nudes/semi nudes), in which case the former must be delivered to the Police as soon as reasonably practical, following a referral if this is decided as the appropriate action (please see Safeguarding Policy for managing incidents).

7 How do we ensure our approach is effective?

- We always tell the pupil what we are doing and why.
- We involve another member of staff so there is at least one witness
- We never act in temper or lose control.
- We always respect pupils' dignity, right to respect, privacy and confidentiality.
- We never involve other pupils in any restraint, we remove other children from the area.

- We always inform parents of what happened and why
- We record our interventions after the event.

8 Risk Assessment and Training for Staff

8.1 We will carry out a written safeguarding risk assessment for any individual pupil for whom we believe that control or restraint may be needed (usually where prior concerns about behaviour have arised, where others have been harmed or placed at risk). This risk assessment must be shared and developed in partnership with the child's parents and will be reviewed on a regular basis.

As appropriate to our school population, our Senior Leadership Team will consider the needs of any of our staff who should be trained in effective techniques. The Headteacher will consider carefully if any staff member requires any additional training to enable them to carry out their responsibilities and care for any individual pupil's needs. Where the use of physical restraint is likely to be needed, staff training will involve specialist techniques via organsaations such as Team Teach.

9 Recording Incidents

9.1 Where possible and appropriate, school leaders will inform the parents prior to conducting the search. Parents will always be informed when a pupil has been searched.

9.2 We will always speak to any parent about any serious incidents which involve the use of force or physical intervention; for example, in averting danger to a child or person or to manage a child's behaviour if absolutely necessary, including children of all ages. We will always make a written record of such, noting any witnesses and staff names involved. Also, we will outline the antecedents and consequences, including any injury sustained and subsequent treatment. We will also record when parents are informed and by whom, as well as making a note of parental responses. The member of staff who completes the written record will sign it.

9.3 All complaints about the use of force will be thoroughly investigated in accordance with our Complaints Procedure. The onus will be on the complainant to prove that their allegations are true.

9.4 Should we receive an allegation about a member of staff in relation to the use of force, screening, searching and/or confiscation, we will follow the relevant section of our Safeguarding Policy and Procedures.

9.5 The decision to exceptionally suspend any teacher rests with the Headteacher, Managing Director. RSL and Head of HR.

10 Monitoring and Evaluation

This policy will be reviewed annually by Cognita and our SLT and revised in accordance with changing requirements for independent schools.

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Related documentation	Safeguarding and Child Protection Policy Behaviour Policy Suspension, Exclusion & Removal in other Circumstances Policy SEND Policy Complaint Procedure Educational Visits Policy Health and Safety Policy Code of Conduct Drug and Alcohol Policy