

# ATL ADVICE



## Discipline in Schools: Your Rights

The coalition government has published new guidance on the Education and Inspections Act 2006, which gives all staff in maintained schools in England and Wales legal rights to discipline pupils. This factsheet provides an overview of these powers in light of the new guidance.

**STOP PRESS:** New legislation (The Education Bill) is currently at the Committee Stage in the House of Lords and is expected to gain Royal Assent in November 2011. This factsheet will be updated once the Bill has become law.

Further information on the contents of the Education Bill can be found here: [www.education.gov.uk/aboutdfe/departmentalinformation/educationbill/a0073748/education-bill](http://www.education.gov.uk/aboutdfe/departmentalinformation/educationbill/a0073748/education-bill).

### Detention

Schools are able to place pupils under the age of 18 in detention without parental consent outside normal school hours. The permitted day for a detention includes:

- any school day where the pupil does not have permission to be absent;
- weekends – except the weekend preceding or following a half-term break; and
- non-teaching days (ie INSET / training days).

There is no requirement for 24 hours' written notice to be given for lunchtime detentions. However, 24 hours' written notice to parents is still required for all detentions outside normal school hours, although parental consent is not required.

A clause in the Education Bill currently before the House

of Lords proposes to remove the requirement in England to give parents 24 hours' notice of a detention.

**ATL's view:** ATL remains concerned at the workload implications for teachers if members of staff are asked to supervise detentions at weekends. Schools should also consider whether supervising detentions requires the professional skills and expertise of a teacher in accordance with the National Agreement on Raising Standards and Tackling Workload.

ATL is further concerned that if a detention takes place during a non-teaching day, then that could affect staff training days. Non-teaching days should be used for CPD purposes.

### Power to discipline

All members of staff in lawful charge of pupils have the power to discipline pupils for inappropriate behaviour, or for not following instructions. This means that support staff as well as teaching staff can discipline pupils.

### Discipline policies

Every headteacher and governing body is required to draw up and publicise a discipline policy for their school and bring it to the attention of pupils, parents and staff at least once a year. The policy should cover the power to use reasonable force or make other physical contact, the power to discipline beyond the school gate, and pastoral care for school staff accused of misconduct.

In addition, the new guidance explains that the school's behaviour policy should set out the disciplinary action that will be taken against pupils who are found to have made malicious allegations against school staff.

**ATL's view:** ATL welcomes government moves to protect members of staff when they have had an allegation made against them. However, ATL believes that the imposition of a £5,000 fine on newspapers that publish the names of people involved in false allegation cases before guilt has been established may not deter newspapers from printing if they believe they have a good story.

Guidance on school discipline and pupil behaviour policies has been published by the Department for Education and can be downloaded from: [www.education.gov.uk/schools/pupilsupport/behaviour/behaviourpolicies](http://www.education.gov.uk/schools/pupilsupport/behaviour/behaviourpolicies).

## Confiscation

Two sets of legal provisions enable school staff to confiscate items from pupils.

The first is the general power to discipline, which enables a member of staff to confiscate, retain or dispose of a pupil's property as a punishment. Should the item be lost or damaged, the law will protect members of staff from liability for such loss or damage, provided they have acted lawfully.

**ATL's view:** Schools should include confiscation of pupil's property as a disciplinary sanction in their behaviour policies and explain the process staff must go through to confiscate an item from a pupil, and what must be done with the confiscated item in accordance with the legal requirements.

The second is the power to search without consent for weapons, knives, alcohol, illegal drugs and stolen items (so-called prohibited items). This is dealt with in more detail in the ATL factsheet *Searching for Weapons (ADV7)* which can be downloaded from [www.atl.org.uk/factsheets](http://www.atl.org.uk/factsheets).

Please note that the Education Bill proposes to add the following to the list of prohibited items for which a teacher may search a pupil:

- any article which the member of staff reasonably suspects has been or is likely to be used to commit an offence or cause personal injury or damage to property
- any item which the school rules identify as an item for which a search can be undertaken (although note that teachers may not use reasonable force to seize items found during a search if they are in this category).

**ATL's view:** ATL believes school staff should only be involved with consensual searches – for example if a pupil turns out his or her pockets – although even consensual searches could prompt a complaint or allegation of assault. If a teacher searches a pupil, this could destroy a relationship of trust that has been built up over many years. There is also a concern that any form of searching introduces an element of 'policing' to the role, and that not all schools will make it clear to their staff that they have the right to refuse to search.

## Use of reasonable force to restrain pupils

All members of school staff have the legal power to use reasonable force. Reasonable force can be used to prevent pupils from hurting themselves or others, from damaging property or from causing disorder. The use of force has two main purposes – to control pupils or to restrain them.

The Department for Education's latest guidance states that schools should not have a 'no-contact policy'. This is because members of staff owe a duty of care towards their students, which in some situations places an obligation on them to take action, for example to prevent a student causing harm.

**ATL's view:** ATL believes that the requirement to have a behaviour policy and to set out in that policy the circumstances in which reasonable force may be used does not go far enough. Schools should be required to have a policy on the use of force that includes specifics on using force to remove children from the classroom. All members of staff should receive training in diffusing aggression, preventing situations from escalating and in practical restraint techniques, so that they have the confidence to deal with these difficult situations and there are no grey areas. Please see our factsheet *The Use of Force to Control or Restrain Pupils (ADV16)*,

which can be downloaded at: [www.atl.org.uk/factsheets](http://www.atl.org.uk/factsheets).

## Parenting orders

The guidance makes it clear that parents have a clear role in making sure their child is well behaved at school. Schools and local authorities will continue to have the power to apply for a court-imposed parenting order.

**ATL's view:** ATL still believes that this is a role best exercised by the local authority.



### Need advice?

Your first point of contact is the ATL rep in your school/college. Your local ATL branch is also available to help, or you can contact ATL's member advisors on 020 7930 6441, email [info@atl.org.uk](mailto:info@atl.org.uk). Don't forget there's lots more advice on ATL's website at [www.atl.org.uk](http://www.atl.org.uk).

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