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3951 SHEETS
SB 282



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James O. Smith
Signature of Camera Operator

10/31/89
Date

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202

Senate Health, Education and Social Services Committee

Legislation Checklist

Bill number: SB 282

Sponsor: Kerttula

Date referred to committee: 4/11/85

Koponen HB 480

Synopsis completed:

Fiscal note:

Further referrals: none

CONTACTS:

- ✓ Kerttula
- ✓ Steve Haley DOE 2800 no state discipline guidelines
all local discretion
- ✓ ~~Walter Rames~~ Bob Mannes 6-3090 support
- ✓ Don McKinnon 6-9702
- ✓ Bob Greene 6-1083

- ✓ Cindy Jacinisky 780-6300 oppose inclusion of private schools
- ✓ Bob Wittkin - 789-2235

- ✓ Sherry Goll
- ✗ Bill Brown 789-2803, 789-7348

SB 282 PROHIBIT CORPORAL PUNISHMENT OF STUDENTS (KERTTULA, KOPONEN HB 480)

1. PUBLIC AND PRIVATE SCHOOLS, EMPLOYEES AND CONTRACTORS
2. PHYSICAL RESTRAINT PERMITTED TO PROTECT SELF OR ANOTHER,
PROTECT PROPERTY, OBTAIN POSSESSION OF A WEAPON.

CONCERNS:

1. ISSUE OF LOCAL CONTROL (47 OF 53 SCHOOL DISTRICTS HAVE POLICIES ON CORPORAL PUNISHMENT. 31 PERMIT, 14 PROHIBIT)
2. RELIGIOUS SCHOOLS ARE EXEMPT FROM STATE OVERSIGHT EXCEPT FOR HEALTH, FIRE, SANITATION, AND IMMUNIZATION STANDARDS. DOES SB 282 ERODE THIS SEPARATION, OR IS THIS A HEALTH ISSUE?
3. LANGUAGE OF BILL PROHIBITS TEACHERS (ETC.) FROM "INFLECTING OR CAUSING TO BE INFLICTED" CORPORAL PUNISHMENT. SOME ARE INTERPRETING THIS TO LIMIT PARENTS' RIGHT TO SPANK OVER SCHOOL-RELATED PROBLEMS.
4. WHAT'S THE PENALTY FOR VIOLATING THE LAW? (NONE SPECIFIED)

ALTERNATIVES:

1. REQUIRE DISTRICTS TO ADOPT POLICIES.
2. ALLOW CORPORAL PUNISHMENT IF PARENTAL PERMISSION.
3. STRICTLY DEFINE ALLOWABLE PUNISHMENT. FOR EXAMPLE, STATE CHILD-CARE REGULATIONS LIMIT TO 3 CONTROLLED SLAPS ON THE BUTTOCKS WITH AN OPEN HAND.
4. LET ONLY THE SCHOOL PRINCIPAL SPANK WITH A WITNESS PRESENT.
5. SPECIFY USE ONLY AS A LAST RESORT.

P. O. Box 211248
Juneau, Ak. 99821
March 5, 1986

Senate Finance Committee
Jan Faiks Chairman
John Sackett, Co-Chairman
Jamar Kertulla
Richard Eliason
Frank Ferguson
Paul A. Fischer
Rick Halford

Testimony for Hearing March 5, 1986

Corporal punishment in the hands of a loving parent is an effective tool through which harmful behavior is inhibited. It is not an angry attempt by one person to damage another. It is rather an act of love and is as different from abuse as night is from day.

Spanking has been the subject of heated controversy in recent years. Probably more foolishness has been written on this subject than all other aspects of child rearing combined. Some have asserted that spanking is ineffective and barbaric. That it's used by frustrated and angry parents wanting to inflict harm, and that it teaches children to be hostile. I have a hard time understanding how people who claim to be intelligent can be so blind.

Sadly, violence does occur sometimes. It's terribly harmful and terribly wrong whenever it does. We deplore it with all of our heart. But that isn't discipline. That's child abuse.

Just because some parents are abusive doesn't mean that spanking, when administered properly in love and patience, isn't an effective or even a necessary form of discipline, because it is.

When a child burns his elbow on the stove, smashes his finger in the door, or gets bitten by a grumpy dog, he learns about physical dangers which exist in the real world. Likewise, an appropriate spanking by loving parents teaches him about other dangers which exist and need to be avoided.

Those who assert that punishment doesn't influence behavior aren't being objective. If punishment doesn't influence behavior, why is the issuance of speeding citations by the police effective in controlling traffic? Why do we rush to get our tax forms in the mail on time to avoid late charges? If punishment has no influence why does a well-deserved spanking often turn a sullen little troublemaker into a sweet little angel? The truth of the matter is: punishment does play an important role in shaping human behavior.

Healthy parenthood can be boiled down to two essential elements: "love" and "control." Love without control leads to contempt and disrespect. Control without love leads to resentment and bitterness. The stern military-like parent who demands unquestioned obedience may pride himself in being master and lord, or the captain in charge; but I tell you this sort of non-loving discipline doesn't make for good relations. It usually engenders a terrible amount of frustration and bitterness.

Suppose a child refuses to sit in the corner, suppose he keeps popping out of bed after he's been told to go to sleep. Obviously, the child, rather than the parent, is in control. And that's a disaster from the start.

On the one hand there's the danger of being overindulgent; on the other hand, the danger of being unnecessarily harsh. We must learn to strike a balance somewhere between these two extremes.

CONCLUSION: If it is desirable for children to be kind, appreciative, and pleasant, these qualities must be taught, not simply hoped for. If it's important to produce respectful, responsible young citizens, then we must set out to mold them accordingly. And the kind of discipline we impose plus the manner in which it is imposed will play a very important part in bringing this about. □

Sue E. Miller

I am happy to give credit for these thoughts to Ralph Woerner from his article, Discipline, Painful but Necessary.

ALASKA WOMEN'S LOBBY

POST OFFICE BOX 10-1571, ANCHORAGE, ALASKA 99510

March 5, 1986

Honorable Bettye Fahrenkamp, Chairman
Senate Health Education and Social Services Committee

Honorable Niilo Koponen, Co-Chairman
Honorable Max Gruenberg, Co-Chairman
House Health, Education and Social Services Committee

Madam Chairman, Mr. Chairmen and members of the committees:

The Alaska Women's Lobby would like to express it's support for the proposed legislation before you today, SB 282 and HB 480.

Our membership, many of whom are parents of school age children, strongly favors the outlawing of the use of physical force as a means of punishment by school employees.

In the past year in Alaska there have been cases of corporal punishment in schools which resulted in prosecutions against the employees for child abuse. The school policy allowed corporal punishment. The school employee was following that policy when meting out this punishment by striking the child with a wooden paddle. The paddle left marks on the child. The child was under six years of age and his "crime" was refusing to eat his snack. (This took place in a private, religious school)

We believe that there are other and better ways to deal with insubordination in school than by the use of corporal punishment. We believe that teaching that the use of physical force and the infliction of pain is an appropriate reaction will only perpetuate the use of violence in our society.

Parents who wish to have their children's misdeeds punished in this way can ask to be informed of their children's misbehavior and can deal with the child's punishment at home.

These bills do not restrict school employees from using physical restraint when necessary to protect persons or property from harm by a student.

We urge the passage of these measures.

Thank you for you consideration.

Sincerely,



Sherrie Goll, lobbyist
Alaska Women's Lobby

Parent Aide Program

706 W. 10th Street
Juneau, AK 99801
(907) 586-3785

March 5, 1986

TO: Members, Senate Health and Social Services Committee
Members, House Health and Social Services Committee

FR: Kathy Stratte, Director, Parent Aide Program

Dear Senators and Representatives,

As the Director of the Parent Aide Program in Juneau, I would like to voice my support of Sen. Kertulla's Senate Bill 282 and Rep. Koponen's House Bill 480, in which corporal punishment would be banned in our schools. The Parent Aide Program is a program serving parents and families in the Juneau Douglas community. The primary purpose of the program is to provide early intervention and prevention services to parents of children at risk for child abuse or neglect. We accomplish this purpose in a number of ways, including counseling services for parents, parent education and support groups, and self-help groups for parents. Many of the educational groups we provide surround the issue of discipline: effective ways to discipline children, alternative forms of non-punitive discipline, how to solve persistent discipline problems, etc. In fact, at this time, we are offering an eight week series to parents called "101 Ways to Discipline Your Child". Frequently, at Parent Aide, we discuss the difference between punishment and discipline, and many parents ask us about alternatives to spanking. "Discipline", according to Webster's Dictionary, means to teach, to instruct, to mold or perfect. "Punishment", on the other hand, means to inflict a penalty for a wrongdoing, or to inflict injury on. Whether or not a parent decides to spank or punish a child is their decision, though of course at Parent Aide we encourage parents to instead consider some of the other "101 Ways" to effectively discipline children. Often a parent will spank a child because spanking is the first thing that comes to mind over a wrongdoing. Perhaps the parent was spanked him/herself as a child. Perhaps it is, they feel, the only thing that "works". At Parent Aide, we try to teach alternatives to spanking, so that spanking may not be the first thing that comes to a parent's mind. Whether or not a school system chooses to use corporal punishment is an entirely different matter. Schools are for teaching, not for inflicting. Schools are for teaching children about problem-solving, consequences of actions, methods of getting along with others in spite of differences of opinion. Teachers and principals are

important models to not only our children, but to their parents. Teachers or principals who spank children are saying, "When things are really bad, you may hit", or "Big people are allowed to hit smaller people", or "If you can think of no other way to solve a problem, you may hit." To the parents, these teachers and principals are saying "We can think of no better way to stop your child from repeating this wrongdoing, so we will spank him/her". Yes, it is a last resort, perhaps, but even as a last resort, it is always there. Schools should be a model to parents, as well as to children, to consider other methods.

This is not an issue of whether or not spanking is right or wrong. That issue is one that can never be resolved, and is best left up to the parents to decide. The issue is whether or not schools are responsible for teaching children and parents new ways to solve problems, alternative ways of dealing with serious situations. Perhaps the alternatives do not always work, but at least the schools owe it to the children to show that they are trying, that they are looking, and that they too are learning and growing.

Thank you very much for your time and attention.

Sincerely,

Kathy Stratte
Kathy Stratte

Testimony Re: SB 282, HB 480 A bill related to corporal punishment in public and private schools.

By: Betty Bengtson, speaking for herself and her husband

Date: 3-5-86

Legislators and community members, I appreciate this opportunity to express to you the views of my husband and myself on SB 282 and HB 480.

My name is Betty Bengtson. I am the mother of 4 children --3 are presently attending VBA. *(Valley Baptist Academy)* I am an educator (retired?) by profession.

It is our opinion that SB 282 and HB 480 will deny us as parents the right to provide a consistent form of discipline for our 4 children. While child psychologists, counselors, teachers, and parents may all disagree on the best method or approach to disciplining children, they all agree on one important fact: no matter what form of discipline is used by a parent or teacher, for it to be effective and successfully bring about the desired change in behavior, it must be administered consistently and fairly.

If SB 282 and HB 480 is passed out of this committee and becomes a law in the State of Alaska the rights of my husband and myself and every other parent in this state who chose to discipline by administering the "board of education to the seat of learning" for acts of rebellion and willful disobedience will be denied.

In the city of Juneau the school board policies repeatedly claim in loco parentis, meaning that the district and its agents act in place of the parent. As such, the district and its agents are obligated to follow the wishes of the parent in all matters related to the child, including discipline. The present Juneau ^{discipline} policy respects the wishes of those parents who chose not to spank their child spanked by requiring written parental consent before a spanking can be administered.

To ban corporal punishment from public and private schools, while giving added protection to this group of people, infringes upon the rights of those parents who desire a policy which more closely reflects

the discipline that occurs in their own homes.

Last spring the Juneau ~~School District~~ Board of Education appointed a committee to deal with the corporal punishment issue in Juneau---that committee conducted an informal survey thru the schools and newspaper. 66% of the people who responded favored keeping corporal punishment with parental consent in the district's discipline policy. All of the members of the committee, including the one parent who strongly opposed the use of corporal punishment, in individual rationale statements written to support the committee's recommendation and findings to the board--stated that the real issue in Juneau was not the use, misuse, or abuse of corporal punishment in schools. ~~The real issue~~ but the parents' right to make the choice of the form of discipline his child would be disciplined with.

Who is held responsible for the actions of the child? The state? The school? The teacher? or the parent? While many today say that the child belongs to the state--when it comes time to pay for a window broken by a child while playing ball, who gets the bill? Mom and Dad! Who gets called at 1 AM when John and his friends have been out partying and have been picked up for disorderly conduct or worse? Mom and Dad!

This committee has the opportunity today to lay to rest this double standard of "child ownership" and settle once and for all ^{in the State of} the ^{Al.} question of the rights and responsibilities to parents.

My husband and I respectfully request the Sen. Kertulla and Rep. Koponen withdraw their bills.

If they chose not to do so, we request that this committee refuse to pass this bill out of committee and by doing so send a clear message to every parent and agency in this State that the State of Alaska recognizes, respects, and supports the rights of every parent to discipline his child with the method that agrees with that parent's own personal convictions and standards.

Sen. Josephson

Supreme Court recognizes private sch. as treated

PUBLIC TESTIMONY
for
Joint House/Senate Committee Meeting
March 5, 1986

Re: Bill 282

My name is Carol Habeger and I am the Director of Juneau Christian Daycare, one of the largest daycare centers in Juneau. Currently we serve 27 part time and 47 full time students, averaging 60 students daily.

Ours is a unique program in Juneau because we are established as an outreach ministry of the Bethel Assembly of God church body. We were established by the church board and are governed by the school board appointed by the church board. The sole reason for our existence is to offer a quality daycare program, based on Christ-centered, Bible-based principles. The parents who have children in our daycare have chosen our program because of this Christian foundation. We are an extension of the home in the training of their children. An integral part of child rearing is discipline. Children need to be taught appropriate behaviors; they do not come by them naturally. (Just place two 2-year olds in a room with one toy and you'll see a good example of this.) Proverbs 22:15 states, "Foolishness is bound up in the heart of a child, but the rod of discipline drives it far from him." Yes, we do use spanking as a form of correction. We use it because it is God-ordained within proper guidelines. The parents of the children we serve are fully aware of this and they themselves use spanking as a form of discipline in their homes.

Again, I stress that these parents have chosen our program because of the quality and type of program we offer. They are fully aware of how we discipline and are in agreement with it.

Senate Bill 282 and the similar bill in the House are in violation of the religious freedom and parental rights guaranteed by the United States Constitution and the Alaska Constitution. I strongly urge you to stop this proposed bill and not allow it to go to the House and Senate.

Thank you.

Carol Habeger, Director
Juneau Christian Daycare
P. O. Box 2000
Juneau, Alaska 99803

different^{ly} parents entered a contract
w the sch. & knew of the policies
prior to enrolling their children -

- the present alternative in juv is
assertive discipline - based on
behavior modification -

I have an 8 yr. old who
calls any form of behavior
modification a game - she
has no intention of being
~~forced~~ into a mold by any
adult - she had a very
negative experience at Duke
Bay Sch.

She does however respond to
a lovingly administered spanking.

Alaska State Legislature

Sandoz

BETTYE FAHRENKAMP, Chairman
ARLISS STURGULEWSKI, Vice Chairman
JOE JOSEPHSON
PAUL FISCHER
EDNA ARMSTRONG-DE VRIES



P O BOX V
STATE CAPITOL
JUNEAU, ALASKA 99811
(907) 465-3834
(907) 465-3762

Senate Committee on Health, Education and Social Services

M E M O R A N D U M

TO: Members, Senate Committee on Health, Education and Social Services

FROM: Committee Staff

RE: Committee Meeting, March 5, 1986

DATE: March 1, 1986

On Wednesday, March 5, from 5:00-6:00 pm in the Senate Finance Committee Room, the Senate and House Committees on Health, Education and Social Services will hold a joint hearing on SB 282.

SB 282, relating to corporal punishment of students, would prohibit the use of corporal punishment in public and private schools in the state. The use of physical restraint would be allowed in specific circumstances.

Current state statutes and regulations do not address the use of corporal punishment. A survey conducted by the Association of Alaska School Boards indicates that 31 of 53 school districts permit corporal punishment; 14 prohibit it. Seven states have adopted laws prohibiting corporal punishment.

A folder of materials prepared by Senator Kerttula, bill sponsor, is attached.

Introduced: 4/11/85
Referred: Health, Education
and Social Services

1 IN THE SENATE

BY KERTTULA

2

SENATE BILL NO. 282

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to corporal punishment of students."

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

8 * Section 1. AS 14.30 is amended by adding a new section to read:

9

ARTICLE 8. CORPORAL PUNISHMENT.

10

Sec. 14.30.610. CORPORAL PUNISHMENT. (a) Except as provided in

11

(b) of this section, a person employed by or contracting with a public

12

or private school may not inflict or cause to be inflicted corporal

13

punishment or bodily pain on a student.

14

(b) A person employed by or contracting with a public or private

15

school may, within the scope of the person's employment, use reason-

16

able and necessary physical restraint on a student to

17

(1) protect ^{oneself, another,} the person, a student, or others from ^{immediate} physical

18

injury;

19

(2) obtain possession of a weapon or other dangerous object

20

from a student; or

21

(3) protect property from serious harm.

NEA (17)
what's the penalty?

file SB 282

January 8, 1986

JAN 10 1986

Senator Bettye Fahrenkamp
Pouch V
Juneau, AK 99811

updated 3-6-86

Attn: Sandra Schubert
Re: Corporal punishment policies in schools

A survey was sent to 53 of Alaska's school districts per your request, asking if they had either a written policy or established practice permitting or prohibiting the use of corporal punishment in the schools.

The 45 districts responding showed the following:

	Districts	Permit	Prohibit
Policy	37	29	8
Established Practice	8	2	6
Totals	45	31	14

The state's six most populous school districts - Anchorage, Fairbanks, Juneau, Ketchikan, Kenai and Mat-Su - all have policies which permit corporal punishment.

It should be noted that policy language almost invariably allows corporal punishment only as a last resort, and that form of punishment is strictly defined. Samples of permissive policies are enclosed.

If you have further questions regarding this, please feel free to call our office.

Sincerely,

Sharon K. Young
Sharon K. Young
Director of Membership Services

enc

PROPOSED MODEL LAW OUTLAWING CORPORAL PUNISHMENT

Corporal Punishment of Pupils

No person employed or engaged by any educational system within this state, whether public or private, shall inflict or cause to be inflicted corporal punishment or bodily pain upon a pupil attending any school or institution within such education system; provided, however, that any such person may, within the scope of his employment, use and apply such amounts of physical restraint as may be reasonable and necessary:

- 1) to protect himself, the pupil or others from physical injury;
- 2) to obtain possession of a weapon or other dangerous object upon the person or within the control of a pupil;
- 3) to protect property from serious harm;

and such physical restraint shall not be construed to constitute corporal punishment or bodily pain within the meaning and intendment of this section. Every resolution, bylaw, rule, ordinance, or other act or authority permitting or authorizing corporal punishment or bodily pain to be inflicted upon a pupil attending a school or educational institution shall be void.

Proposed by the National Education Association, 1972

BILL SHEFFIELD, GOVERNOR

REPLY TO:

1031 W 4th AVENUE
SUITE 200
ANCHORAGE, ALASKA 99501
PHONE: (907) 276-3550

1st NATIONAL CENTER
100 CUSHMAN ST.
SUITE 400
FAIRBANKS, ALASKA 99701
PHONE: (907) 452-1568

P.O. Box K - State Capitol
JUNEAU, ALASKA 99811
PHONE: (907) 463-3600

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

January 30, 1986

JAN 31 1986

465-3603

Honorable Jalmar Kertulla
Alaska State Senate
P.O. Box V
Juneau, Alaska 99811

Re: Corporal punishment in Alaska
public schools

Dear Senator Kertulla:

Your office has asked for an opinion on the current legal status of corporal punishment in Alaskan public schools. We conclude that such punishment is probably legal, so long as it is "reasonable" under the common law doctrine of in loco parentis state statutes, and constitutional provisions.

The doctrine of in loco parentis originated in the English common law and recognizes that a parent delegates that part of his or her parental authority to school personnel as may be necessary for educational purposes while the child is in their custody. Although the doctrine originated in a voluntary school system, it has generally been followed in this country where there is compulsory school attendance. Smith v. W. Va. State Board of Education, 295 S.E.2d 630 (W.Va. 1982).

The Smith court emphasized that the in loco parentis doctrine does not provide an absolute right to punish. A parent does not have, and thus cannot delegate to others, the power to chastise beyond what the child's reasonable welfare arguably demands. It has never been recognized that a parent has the right to maim, disfigure, or disable a child simply because her or she might be stubborn and not respond to correction in the manner the parent might think proper. Id. 295 S.E.2d at 626.

In addition, there are legislative constraints on parents and their surrogates. A child may be judicially declared to be in need of aid and may then be protected by the state as a result of

having suffered substantial physical harm or if there is an imminent and substantial risk that the child will suffer such harm as a result of actions done by or conditions created by the child's parent, guardian, or custodian.

AS 47.10.010(a)(2)(c). The same is true of a child "having suffered substantial physical abuse or neglect as a result of conditions created by the child's parent, guardian, or custodian."
AS 47.10.010(a)(2)(F).

State criminal law provides a defense to the crime of assault for a person who has a special relationship with a child and who uses "reasonable and appropriate" nondeadly force. AS 11.81.430 provides, in pertinent part:

Sec. 11.81.430. JUSTIFICATION: USE OF FORCE, SPECIAL RELATIONSHIPS. (a) The use of force upon another person that would otherwise constitute an offense is justified under any of the following circumstances:

(1) When and to the extent reasonably necessary and appropriate to promote the welfare of the child or incompetent person, a parent, guardian, or other person entrusted with the care and supervision of a child under 18 years of age or an incompetent person may use reasonable and appropriate nondeadly force upon that child or incompetent person.

(2) When and to the extent reasonably necessary and appropriate to maintain order and when the use of force is consistent with the welfare of the students, a teacher may, if authorized by school regulations and the principal of the school, use reasonable and appropriate nondeadly force upon a student. If authorized by school regulations and the principal of the school, a teacher may use nondeadly force under this paragraph in any situation in which the teacher is responsible for the supervision of students. A teacher employed by a school board, including a regional educational attendance area school board, may use nondeadly force under this paragraph only if the school regulations authorizing the use of force have been adopted by the school board.

(3) When and to the extent reasonably necessary and appropriate to maintain order, a person responsible for the maintenance of order in a common carrier of passengers, or a person acting under that person's direction, may use reasonable and appropriate nondeadly force.

. . . .

AL 11.81.430.

There may be also constitutional constraints on the use of corporal punishment. In Ingraham v. Wright, 430 U.S. 651 (1977), the U.S. Supreme Court held that paddling school children was not prohibited by the cruel and unusual punishment provisions of the Eight Amendment. The Fourth Circuit, however, has held that where the force applied "caused injuries so severe, was so disproportionate to the need presented, and was so inspired by malice or sadism rather than a merely careless or unwise excess of zeal that it amounted to a brutal and inhumane abuse of official power literally shocking to the conscience," then the punishment may be a violation of the substantive due process provisions of the Fourth Amendment. Hall v. Tawney, 621 F.2d 607 4th Cir. 1980).

Article I, Sec. 12 of the Alaska Constitution provides:

EXCESSIVE PUNISHMENT. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted. Penal administration shall be based on the principle of reformation and upon the need for protecting the public.

Given the penal context of that provision, it is likely that the Alaska Supreme Court would hold that it is inapplicable to the school setting, like its counterpart in the U.S. Constitution. Even if it was applicable in the school setting, the test under that provision is "whether the punishment is inhumane and barbarous, or so disproportionate to the offense committed, as to be completely arbitrary and shocking to the senses of justice." Lanier v. State, 486 P.2d 981 (Alaska 1971). Accordingly, even if that provision were to be applied in the public school context we believe it would afford no more protection to a student than is already afforded by the in loco

parentis doctrine, relevant Alaska statutes, and the substantive due process clause.

In sum, corporal punishment in public schools in Alaska is probably legal so long as it is "reasonable." What is "reasonable" depends on the circumstances and, quite frankly, on the decisionmaker. Alaska Department of Health and Social Services regulations governing foster parents provide that "controlled hand spankings of one to three slaps on the buttocks are allowed when appropriate." 7AAC 50.450. That department's regulations governing juvenile correctional facilities, however, provide that corporal punishment may not be used. 7AAC 52.335.

The West Virginia Supreme Court of Appeals, in the Smith case cited above, held that hand spankings were permitted, but that the use of whips, paddles, or other contrivances was prohibited because "[t]he very nature of these devices is such that their use often leads to excessive force and injury." 295 S.E.2d at 687. Similarly, in State v. Killory, 243 N.W. 475 (Wis. 1976), the court held that a psychologist's "treatment" of a child with enemas, whippings, and paddlings constituted "cruel maltreatment" of the child.

In Gaspersohn v. Harnett Co. Board of Education, 330 S.E.2d 489 (N.C. App. 1985), however, the court upheld dismissal of an assault and battery action brought by a student paddled with a wooden paddle that caused bruises and potentially permanent psychological effects. In Maddox v. Boutwell, 336 S.E.2d 599 (GA. App. 1985), the court upheld a summary judgment for school officials under similar circumstances. Accordingly, we cannot say with certainty what amount or type of corporal punishment would be upheld by the courts as "reasonable" under the in loco parentis doctrine under any given set of circumstances, and what amount or type will give rise to common law tort remedies.

Attached please find copies of the Smith, Ingraham, Hall, Killory, Gaspersohn, and Maddox cases mentioned in this memorandum. Also, we have enclosed an informal opinion from this office to the Commissioner of Health and Social Services regarding "spanking policy" for institutions contracting with the

Honorable Jalmar Kertulla
Alaska State Senate

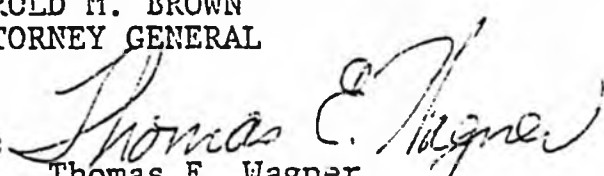
January 30, 1986
Page 5

former division of corrections for the care of delinquent
juveniles. 1980 Inf. Op. Att'y Gen. (Jul. 24; J66-057-79).

Sincerely yours,

HAROLD M. BROWN
ATTORNEY GENERAL

By:


Thomas E. Wagner
Assistant Attorney General

TEW:nb

cc: Art Peterson



ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 465-3991

January 30, 1985

MEMORANDUM

TO: Representative Robin Taylor

FROM: Heidi Borson Paine^{HBP}
Legislative Analyst

RE: Prohibitions Against Corporal Punishment in Other States
Research Request 85-125

Elsa Demeksa of your staff requested this agency to determine which states prohibit the use of corporal punishment in schools. According to the National Conference of State Legislatures and a group called End Violence Against the Next Generation, the following seven states currently prohibit corporal punishment: Maine, Massachusetts, Rhode Island, New Jersey, New Hampshire, Hawaii, and Vermont. Most large cities in the U.S. also prohibit corporal punishment, including: Chicago, New York, Los Angeles, San Francisco, Washington, D.C., Baltimore, and Pittsburgh.

Several other states are currently considering the prohibition of corporal punishment. In New York, the Board of Regents has voted to ban corporal punishment. Legislation banning corporal punishment is under consideration in Minnesota and North Dakota. A statewide committee in Ohio is working to introduce legislation prohibiting the use of corporal punishment in schools.

In 1975, the California legislature passed legislation permitting local school districts to abolish corporal punishment and requiring school districts which permit corporal punishment to obtain parental approval. As such, in districts which permit corporal punishment, schools are required to send a permission form to each parent. The form asks the parent to approve or disapprove the use of corporal punishment on his or her child. If a parent neglects to return the signed form, the school district may not use corporal punishment on his or her child. Approvals must be renewed each year and parents are free to change their permission forms at any time. According to Aida Mauer of End Violence Against the Next Generation, because it is cumbersome to collect the required forms, most school districts in California have abolished corporal punishment.

I have attached some materials on corporal punishment for your review. If you would like, I will forward any additional information I receive. Please contact me if you have any further questions.

HBP

Attachments

STATE OF ALASKA

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

FINANCE DIVISION
POUCH WF-STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3795

M E M O R A N D U M

DATE: May 23, 1985

TO: Senator Jay Kerttula

FROM: Mike Greany, Director *MGreany*
Legislative Finance Division

SUBJ: Budgeted Amounts for Child Abuse Costs

In response to your May 22, 1985 Memorandum, the attached chart shows that the FY 85 operating budget includes approximately \$35.5 million for child abuse costs. All but \$915,500 is provided from the State General Fund.

In addition to the present budget level, the 1985 session provided \$2,566,600 through HB 88 fiscal notes to the departments of Administration, Law, Health & Social Services, and Public Safety, and the Court System. The fiscal notes add 54.5 new positions to these agencies -- 45.5 full-time and 9 part-time.

attachment

CURRENT CHILD ABUSE WORKLOAD BUDGETED COSTS
FY85 ESTIMATES (\$000)

	<u>Court System</u>	<u>HS&SS</u>	<u>Administration</u>		<u>Pub. Safety</u>	<u>Law</u>		<u>Total</u>
			<u>Pub. Def.</u>	<u>Pub. Adv.</u>		<u>Pros.</u>	<u>Civil</u>	
Personal Services	\$178.9	\$7,706.2	\$583.3	\$427.4	\$549.6	\$1,060.6	\$891.1	\$11,397.1
Travel		293.5		47.5	16.0			357.0
Contractual		764.8			55.1			819.9
Commodities		77.3			10.8			88.1
Equipment		1.3						1.3
Grants		18,668.7			4,112.5			22,781.2
Misc.	---	---	---	---	---	---	---	---
Total	\$178.9	\$27,511.8	\$583.3	\$474.9	\$4,794.0	\$1,060.6	\$891.1	\$35,494.6
<u>Funding Summary</u>								
GF	\$178.9	\$27,019.4	\$583.3	\$474.9	\$4,794.0	\$1,060.6	\$468.0	\$34,579.1
I/A Rcpts.							423.1	423.1
Fed. Rcpts.		492.4						492.4
<u>Positions</u>								
PFT		170.3	9.1		8.0	16.2	7.9	203.6
PPT	n/a	3.0		n/a				3.0
Months		2,066.4	109.2		96.0	195.0	94.8	2,561.4

*FY85 Annualized



THE CENTER FOR CHILDREN AND PARENTS

MAR 3 1986

February 25, 1986

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Senator Jalmar Kerttula
Pouch V
Juneau, Alaska 99811

Dear Senator Kerttula:

The Anchorage Child Abuse Board is opposed to the use of corporal punishment in the schools. While an occasional spanking administered to the average kid by a frustrated parent probably does neither harm nor good, frequent and even scheduled school spankings administered to hyperactive and aggressive children can do considerable harm. A child who is prone to aggressive acts against others must learn non-violent ways to deal with anger. What he desperately needs is a gentle role model to demonstrate the art of negotiation and communication. Yet, all too often, the child who hits is hit for hitting: Not surprisingly, such a "Do as I say, not as I do" message is universally ineffective.

Corporal punishment based upon parental permission is similarly flawed. The abusive parent is especially likely to give permission for something that is already done excessively at home. If a child is regularly hit by home authorities, and then hit at school as well, where can he learn non-violent methods of relating to society?

Parents and teachers frequently complain that without corporal punishment there will be no discipline. They do not understand that spanking is the least effective of the many forms of discipline. Positive reinforcement of good behavior is generally more effective than punishment, but when punishments are needed, "Time Out", detention and work detail can be used.

In summary, the Anchorage Child Abuse Board is opposed to the use of corporal punishment in the schools as being contradictory to the goal of preventing child maltreatment.

Marianne von Hippel

Marianne von Hippel, M. D.
President
Anchorage Child Abuse Board



Southcentral Alaska Chapter -
National Committee for
Prevention of Child Abuse

808 E STREET, SUITE 200, ANCHORAGE, ALASKA 99501 (907) 276-4994
Programs of the Anchorage Child Abuse Board, Inc.



POSITION STATEMENT

THE ANCHORAGE CHILD ABUSE BOARD, INC. IS OPPOSED TO THE USE OF CORPORAL PUNISHMENT IN THE SCHOOLS AND OTHER CHILDCARE SETTINGS OF ALASKA, AS BEING CONTRADICTORY TO THE GOAL OF PREVENTING CHILD MALTREATMENT. WE URGE ALL PARENTS, EDUCATORS, SCHOOL BOARD MEMBERS, CHILDCARE PROVIDERS, LEGISLATORS, AND OTHER PERSONS TO SEEK THE ABANDONMENT OF CORPORAL PUNISHMENT IN PUBLIC SETTINGS THROUGH ITS LEGAL PROHIBITION.

ALTERNATIVE DISCIPLINARY METHODS TO PROMOTE SELF-CONTROL AND RESPONSIBLE BEHAVIOR ARE AVAILABLE AND RECOMMENDED. TRAINING IN THE USE OF ALTERNATIVE METHODS SHOULD BE ENCOURAGED.

Article 1. Non-exempt Religious and Private Schools.

Section

20. [Repealed]

30. Non-exempt schools

Sec. 14.45.020. Commissioner may furnish examination questions for and grant diplomas to eighth grade pupils. [Repealed, § 6 ch 11 SLA 1984.]

Sec. 14.45.030. Non-exempt schools. Teachers and others in charge of religious or other private schools not operated in compliance with AS 14.45.100 — 14.45.140 are not exempt from laws and regulations relating to education. Non-exempt schools shall make regular monthly attendance reports and annual reports to the commissioner in the same manner as teachers and superintendents in the public schools. (§ 37-11-3 ACLA 1949; am § 4 ch 11 SLA 1984)

Effect of amendments. — The 1984 amendment rewrote the section.

Article 2. Exempt Religious and Other Private Schools.

Section

100. Exemption

110. Requirements of exempt schools

Section

120. Standardized testing requirements

130. Records

Cross references. — For legislative purpose of 1984 enactment, see § 1, ch. 11, SLA 1984 in the Temporary and Special Acts.

Sec. 14.45.100. Exemption. A religious or other private school that complies with AS 14.45.100 — 14.45.140 is exempt from other provisions of law and regulations relating to education except law and regulations relating to physical health, fire safety, sanitation, immunization, and physical examinations. (§ 5 ch 11 SLA 1984)

Editor's notes. — AS 14.45.140, which is referred to in this section, was renumbered as AS 14.45.200 in 1984.

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Sec. 14.45.110. Requirements of exempt schools. (a) The parent or guardian of a child of compulsory school age enrolled in a religious or other private school that complies with AS 14.45.100 — 14.45.140 shall file an annual notice of enrollment in the school for the child with the local public school superintendent for the area in which the child resides on a form provided by the department. The form shall be signed by the parent or guardian and the chief administrative officer of the school and returned to the local public school superintendent by the parent or guardian. The school shall notify the local public school superintendent within a reasonable time if the child is no longer enrolled in or attending the school.

(b) A religious or other private school that elects to comply with AS 14.45.100 -- 14.45.140 shall maintain monthly attendance records for each student enrolled in the school, shall operate on a regular schedule, excluding reasonable holidays and vacations, during at least 180 days of the year, and shall make an annual report to the commissioner of the number of students in each grade and the school calendar. (§ 5 ch 11 SLA 1984)

Editor's notes. — AS 14.45.140, which is referred to in this section, was renumbered as AS 14.45.200 in 1984.

Sec. 14.45.120. Standardized testing requirements. (a) A religious or other private school that elects to comply with AS 14.45.100 — 14.45.140 shall administer a nationally standardized test selected by the chief administrative officer of the school to all students enrolled in grades four, six and eight at least once each school year.

(b) The nationally standardized test must measure achievement in English grammar, reading, spelling, and mathematics.

(c) A religious or other private school that elects to comply with AS 14.45.100 — 14.45.140 shall maintain records of the results of the nationally standardized tests and the records shall be made available to the parent or guardian of the student. Each school shall make composite test results for the school available annually to an authorized representative of the department. The composite test results of a religious or other private school operated in compliance with AS 14.45.100 — 14.45.140 are not public information unless each public school

(1) is also required to administer a nationally standardized test that measures achievement in English grammar, reading, spelling, and mathematics; and

(2) the composite test results for each public school are public information. (§ 5 ch 11 SLA 1984)

Editor's notes. — AS 14.45.140, which is referred to in this section, was renumbered as AS 14.45.200 in 1984.

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Sec. 14.45.130. Records. (a) A religious or other private school that elects to comply with AS 14.45.100 — 14.45.140 shall maintain permanent student records reflecting immunizations, physical examinations, standardized testing, academic achievement, and courses taken at the school.

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(b) The chief administrative officer of a school that elects to comply with AS 14.45.100 — 14.45.140 shall certify to the department, under oath or by affirmation, that the records required under (a) of this section are being maintained. (§ 5 ch 11 SLA 1984)

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Editor's notes. — AS 14.45.140, which is referred to in this section, was renumbered as AS 14.45.200 in 1984.

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Article 3. General Provisions.

Section
200. Definitions

Sec. 14.45.200. Definitions. In this chapter

(1) "private school" means a school that does not receive direct state or federal funding;

(2) "religious school" means a private school operated by a church or other religious organization that does not receive direct state or federal funding. (§ 5 ch 11 SLA 1984)

Revisor's notes. — Enacted as AS 14.45.140. Renumbered in 1984.

Chapter 52. Food Service and Nutrition
Education.

[Repealed, § 60 ch 6 SLA 1984.]

Introduced: 1/16/86
Referred: Health, Education &
Social Services and State Affairs

1 IN THE HOUSE

BY KOPONEN AND DAVIS

2

HOUSE BILL NO. 480

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act relating to corporal punishment of students."

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

8 * Section 1. AS 14.30 is amended by adding a new section to read:

9

ARTICLE 8. CORPORAL PUNISHMENT.

10

Sec. 14.30.610. CORPORAL PUNISHMENT. (a) Except as provided in

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(b) of this section, a person employed by or contracting with a public

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or private school may not inflict or cause to be inflicted corporal

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punishment or bodily pain on a student.

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(b) A person employed by or contracting with a public or private

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school may, within the scope of the person's employment, use reason-

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able and necessary physical restraint on a student to

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(1) protect the person, a student, or others from physical

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injury;

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(2) obtain possession of a weapon or other dangerous object

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from a student; or

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(3) protect property from serious harm.

Should Children Be Hit In School?

The teacher, the principal, the superintendent.

CORPORAL PUNISHMENT—thought by many to be a relic of education's Dark Ages—is, in fact, common in many American schools. Thousands of pupils from kindergarten through the 12th grade are spanked every school day, sometimes for such trivial offenses as forgetting supplies, making small academic errors, being late, not finishing their lunches or talking too loudly on the school bus.

Only seven states (Hawaii, Maine, Massachusetts, New Hampshire, New Jersey, Rhode Island and Vermont) now ban corporal punishment by teachers and administrators. New York will become the eighth on Sept. 1, as the result of a Board of Regents regulation adopted in February. Though most of the major urban school districts throughout the country also have banned it, about 75 percent of American schoolchildren remain enrolled in districts that permit hitting.

Based on the most recent data available from the U.S. Department of Education, a PARADE survey estimates that from 2 million to 3 million incidents of

corporal punishment took place in public schools in 1982 (the survey did not include private or parochial schools). Of those reported, more than 90,000 involved mentally or physically handicapped children, thrashed because they learned too slowly, talked too loudly, wet their pants, and for other reasons.

While many schools and parents support corporal punishment as necessary to maintain discipline, critics argue that its legal sanction can lead to abuse. "Firm discipline does not by definition mean hitting kids," says Mary Hatwood Futrell, president of the National Education Association, which has long opposed corporal punishment. "When teachers have to resort to beating children, they have already lost control."

Even a modest paddling can traumatize a child. When Nicole Fathman, 11, of Marysville, Ohio, was in first grade, she was given three swats with a paddle because she circled—rather than underlined—a word in a reading class.

Nicole's father, Dr. Robert Fathman, a psychologist, was incredulous when he learned why his daughter had been paddled. Surprise turned to anger when

tenacious and finally the school board treated his complaint with nonchalance, he recalls. He demanded a public hearing.

"I thought I might get an apology," says Dr. Fathman. "Instead, the teacher gave a speech justifying why she spanked kids. Discipline and education, she said, go hand in hand, and children have to learn not to make silly mistakes. When she sat down, she got a five-minute standing ovation from about 100 supporters. My wife and I were stunned."

For a long time afterward, Dr. Fathman remembers, Nicole would awaken at night, screaming. The paddling had another effect: "Before this, I loved to read books," says Nicole. "Since then, I find it boring, and I only do it if I have to."

As a result of the incident, Dr. Fathman organized a campaign to fight corporal punishment. The fight was carried to the Ohio Statehouse, and on Jan. 8 of this year, Gov. Richard Celeste signed a new law giving local school boards the option to ban spanking.

While Nicole Fathman's moderate spanking with a wood paddle is typical of most episodes, the use of other instruments—and more severe trauma—though not an everyday occurrence, has been documented.

At Philadelphia's Temple University, a psychology professor, Dr. Irwin A. Hyman, directs the National Center for the Study of Corporal Punishment. The center's file of hundreds of newspaper stories contains various examples of punishment. In the last five years, these have included burning, mental abuse, punching, slapping and whipping. Children have been locked in closets or tied to chairs and beaten. There have been cases of broken limbs and teeth, gashes requiring stitches, broken blood vessels and nerve damage.

Children have been hospitalized or treated in emergency rooms after school beatings. Parents, critics note, are not legally permitted to treat their children with such severity—if they did, they might be subject to prosecution—but teachers may do so with virtual impunity. America's schoolchildren, in fact, are the only class of citizens who legally can be beaten.

During an 18-month period at Children's Hospital in Columbus, Ohio, Rosalyn Bandman, director of the Department of Clinical Social Workers, counted 28 cases of youngsters treated in the emergency room after encounters with teachers. She says doctors were bewildered by the fact that identical injuries were treated differently by the law—depending on whether a parent or teacher was involved.

"Sadly, these 28 cases were mostly special-needs children—emotionally disturbed, learning disabled, mentally retarded," Bandman adds.

Many schools can legally override parental requests not to spank their child. These schools also have no legal obligation to inform parents when corporal punishment has been administered, though many do so as a matter of policy.

BY MICHAEL SATCHELL

tors often view criminal proceedings against teachers as a futile exercise, except in extreme cases of brutality. Aggrieved parents usually have little choice but to hire a lawyer and sue.

The parents of 18 first-graders in Fayette County, W. Va., whose children had been tied up and their mouths taped, recently filed a civil petition to have the woman teacher removed after the school board refused to do so. For months, the youngsters had come home exhibiting mysterious distress signs—headaches, stomachaches, nightmares, severe anxiety—but none had told his parents about the teacher's actions.

"It's a very sad case, and very frustrating," says Lesa Gulley, an investigator with the state attorney general's office. "We searched the statutes but couldn't find a crime to charge her with. The only option was to have the parents file

Corporal punishment is allowed in 43 states: Schools call it discipline, critics say it's abuse.

a civil suit alleging child abuse."

Even then, winning a case can be difficult. Furious after a male assistant principal beat their 17-year-old daughter, Shelly, an honor student at Dunn High School in North Carolina, Arnold and Marlene Gaspersohn sued the school district. Shelly had been given six blows on the buttocks for skipping class one day.

Aside from raising the question of the propriety of a male administrator paddling a young woman, the punishment caused massive bruising and hemorrhaging. But a jury rejected the claim for damages because Shelly's injuries weren't permanent. Says her mother: "What happened was despicable. This was her first discipline offense in all her school years. We want to call attention to how ridiculous the law is."

Abuses are reported every week: In Tucson, an 11-year-old boy who had sneaked into the girls' bathroom was

Mesquite, Tex.



Teresa Garcia,
12 years old,
of Chamisal, N.M.

forced to remove his trousers and don a red dress, then was paraded around the school by a teacher who ridiculed him. A Roseville, Mich., teacher spanked 11-year-old Kristi Haugh, then invited the entire class to come up and hit her on the buttocks with a paddle. Her crime? Chewing gum in class. It took two weeks for Chris Donelson, 8, of Wilmer, Tex., to recover after being struck 17 times with a paddle. His parents moved to another town shortly afterward. In the New Mexico hamlet of Chamisal, Teresa Garcia, 12, showed the scar on her leg she had received from an encounter with

a male teacher and a female principal. She said the teacher had lifted her upside down while the principal had paddled her on the legs.

For Anthony and Carol Piwovar of Westchester County, N.Y., violent treatment of their 11-year-old son, Anthony Jr., by a public school teaching supervisor has left their future uncertain.

A hyperactive child with emotional problems, their son had made "fantastic progress," they say, in special-education classes. On Nov. 1, 1983, Anthony balked at leaving his classroom for outside activities with the teacher, so a female

that the supervisor began screaming. Anthony, twisted his arms behind his back, dragged him into a windowless cloakroom, banged his head on the floor and sat on him—an assault that lasted close to 30 minutes.

"He regressed overnight," recalls his father, an NBC News technical manager. "He's become a stranger to the boy we once knew." Today, Anthony is an outpatient in a hospital psychiatric program for severely disturbed children.

Dr. Adah Bass Maurer of Berkeley,

guesses a Mesquite. Adds a high school shop teacher: "If you're lax, you're going to ruin a kid. With some of 'em, you just gotta get their attention."

Asked why 22 grade-schoolers recently were paddled for neglecting to bring watercolors to art class, Dr. Ralph Poteet, superintendent of the Mesquite schools, insists it wasn't corporal punishment but a "love pat." Says Poteet: "Teachers need every option to maintain order.

Chris Donelson, 8 years old, of Wilmer, Tex.



Parents protest corporal punishment. Clockwise, from top:

Tammy was spanked when she didn't bring paints to class; the Donelsons moved after Chris was paddled; the Garcia: are suing for damages for two beatings Teresa received, one of which left a 2-inch scar.

Calif., a psychologist and critic of corporal punishment, points out that most incidents are in the South. Based on federal survey data, Dr. Maurer ranks Arkansas children as the most likely to be paddled, followed by those in Florida, Mississippi, Tennessee, Georgia, Texas, Alabama, Oklahoma, Kentucky, South Carolina, North Carolina, New Mexico, West Virginia and Louisiana.

Conversations with two dozen teachers and administrators who defend corporal punishment reveal a curious dichotomy. All have spanked children, but they express a dislike—even revulsion—of the practice. Most see it as a teacher's failure to maintain discipline by other methods, and few feel it changes behavior. Yet none say they would be willing to relinquish the paddle.

"No professional wants to resort to corporal punishment to maintain discipline," says one South Dallas teacher. "It means you've lost control. Generally, spanking has little effect, particularly with a kid who is beaten at home. Still, I'd hate to give it up."

Alternatives such as detention, suspension, additional homework, extra-curricular chores, counseling and notes

Our parents support us. They want us to spank their kids. These opponents make it sound like we're murdering them."

Critics, on the other hand, insist that corporal punishment only serves a teacher's need to relieve anger and stress.

"There isn't a single reputable academic study that supports corporal punishment as an effective learning or disciplinary tool," says Temple University's Irwin Hyman. "It has many negative effects on children. It contributes to physical and sexual abuse by sending the message that children's bodies are not to be protected. It arouses feelings of anger, aggression, humiliation and anxiety in kids. And look at the excesses and abuses."

Then why does it continue?

"Tradition," says Dr. Hyman. "Nothing else." 12

prepared by Kerttula

Organizations Which Support Banning Corporal Punishment

American Medical Association
National Parent Teachers Association
National Education Association
American Psychological Association
American Public Health Association
American Orthopsychiatric Association
Mental Health Association
Society for Adolescent Medicine
American Academy of Pediatrics
Council for Exceptional Children
N.A.A.C.P.
American Civil Liberties Union
Friends Committee on Legislation
Association for Humanistic Education
Unitarian Universalist General Assembly
American Humanist Association
National Committee for Prevention of Child Abuse
U.S. Department of Defense Dependents Schools Overseas

These have all gone on record as opposing corporal punishment in American schools.

The American Medical Association and the National Parent Teachers Association went on record in June of 1985.

AMA states: Corporal punishment is ineffective in maintaining order, may increase disruptive behavior and hinders learning. The infliction of pain or discomfort, however minor, is not a desirable method of communicating with children.

NEA states: Firm discipline does not by definition mean hitting kids. When teachers have to resort to beating children, they have already lost control.

Hawaii has banned corporal punishment for several years, and they say that discipline in the schools has improved not deteriorated.....Commissioner of Education.

Legal Association states: Corporal punishment arouses feelings of anger, aggression, humiliation and anxiety. To oppose corporal punishment is not to oppose discipline. Discipline is derived from the French: "To teach".....thus, effective disciplinary techniques are conducive to, and consonant with, a positive learning environment, where corporal punishment has no place.

Many of the native associations have opposed corporal punishment with the following statement:

We feel that corporal punishment or the threat of corporal punishment, directed against our children or their peers runs counter to our traditional and ongoing value systems.Many of us spend a lot of time making sure our children are certain that they know no one is ever to touch their bodies. To see or know that other children are being touched by adults does much damage to this teaching. It also causes great, and unnecessary, confusion to the children, due to the conflicting set of values.

The National Conference of State Legislatures informed me that eight states have abolished corporal punishment in their schools: Hawaii, Maine, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, and Vermont. Puerto Rico has also abolished corporal punishment in schools.

Most large cities in the U.S. also prohibit corporal punishment, including: Chicago, New York, Los Angeles, San Francisco, Washington, D.C., Baltimore, and Pittsburgh.

Several other states are currently considering the prohibition of corporal punishment. Legislation banning corporal punishment is under consideration in Minnesota and North Dakota. A statewide committee in Ohio is working to introduce legislation prohibiting the use of corporal punishment in schools.

In 1975, the California legislature passed legislation permitting local school districts to abolish corporal punishment and requiring school districts which permit corporal punishment to obtain parental approval. As such, in districts which permit corporal punishment, schools are required to send a permission form to each parent. The form asks the parent to approve or disapprove the use of corporal punishment on his or her child. If a parent neglects to return the signed form, the school district may not use corporal punishment on his or her child. Approvals must be renewed each year and parents are free to change their permission forms at any time. According to Aida Mauer of End Violence Against the Next Generation, because it is cumbersome to collect the required forms, most school districts in California have abolished corporal punishment.

Reasons for Opposing Corporal Punishment

It is unnecessary.
It pre-empts better means of communicating with the child.
It teaches by example that the infliction of pain is the proper way to power.
It develops deviousness, the trick is not to get caught.
It increases aggressiveness in the child.
It causes anxiety and school phobia in the other children.
It reduces the ability to concentrate on intellectual tasks.
It damages the punisher in that it narrows his options, tunnels his vision and tarnishes his image as a man or woman of learning.

What works?

Firm but non-punitive control.
Capable teachers.
High expectations.
A forward looking curriculum.
Support of a concerned administration.

When civilized nations abolished corporal punishment:

Poland	1783	Norway	1936
Holland	1820	Romania	1948
Italy	1860	Portugal	1950
Belgium	1867	Sweden	1958
Austria	1870	Denmark	1967
France	1881	Spain	1967
Finland	1890	Germany	1970
Russia	1917	Switzerland	1970
Turkey	1923	Ireland	1982

It is not used in Albuquerque, Atlanta, Baltimore, Boston, Chicago, Los Angeles, Milwaukee, Madison, New Haven, New Orleans, New York, Pittsburg, Portland, Providence, Philadelphia, Phoenix, St. Louis, Salt Lake City, San Francisco, San Jose, Seattle, nor in Washington, D.C.

Some Reasons Why We Are Against Corporal Punishment

On a national level, we prohibit corporal punishment in the army, in prisons and state institutions. Children in schools are the only group left unprotected. In many cases, children are better protected in their home than at school. A teacher only has to show that they did not cause permanent damage, whereas parents can lose custody for bruising children.

Corporal punishment pre-empts better means of communication with a child.

It teaches by example that infliction of pain is the proper way to use authority.

What constitutes cause for hitting a child? The size of the child and the person doing the hitting need to be taken into consideration.

It increases aggressiveness in the child and vandalism in the schools.

It can be dangerous as it escalates into battering.

"FORCE HAS NO PLACE WHERE THERE IS NEED OF SKILL" Herodotus

Alternatives to Corporal Punishment

Firm but non-punitive control.

Capable teachers.

In answer to the argument that we are legislating what happens in private institutions:

We already do with curriculum, health and safety codes, etc. If someone (adult) was assaulted in a private institution or business such as a restaurant, charges would be brought. Children at this time do not have this option.

Someone needs to protect the children.

This is a question of children's rights.

The use of physical discipline lets the teacher vent some anger, but most will agree that it does not change the child's behavior.

The harsher the discipline, the less likely the child will respond to future discipline....Dr. Feldman....15 years of pediatric practice.

It is a rare parent and few teachers who have never hit a child. Children can be exasperating, frustrating, annoying, obstinate, and ungrateful. They respond, however, to love, not violence.

Just as we teach children fire and traffic safety without detailing any frightening consequences, teachers need to use better judgment in providing non-threatening, straightforward rules that will equip the children with tools needed to learn and think.

It is our collective responsibility to seek a society in which our children have a right to learn without fear.

NEA PASSED THE FOLLOWING RESOLUTIONS:

R-21: Oppose Corporal Punishment: NEA Alaska opposes the use of corporal punishment in public and private schools and supports legislation to make it illegal.

R-26: Alternatives to Corporal Punishment: NEA Alaska urges local school districts, with D.O.E. assistance, to establish supportive behaviors management procedures for classroom teachers. These procedures should provide viable alternatives to corporal punishment and should realistically deal with such issues as disruptive students, time out, and parental involvement.



CHURCH
OF THE
COVENANT

P.O. Box 874101, Wasilla, Alaska 99687
(907) 376-4551

December 2, 1985

Mat-Su School Board
P.O. Box AB
Palmer, Alaska 99645

Honorable Members of the Mat-Su School Board:

The Congregation of the Church of the Covenant unanimously stands in opposition to corporal punishment in public schools, in as much as the gospel of peace stands in opposition to all forms of violence.

Signed by authority
of the Congregation
of the Church of the Covenant

David L. Cook
David L. Cook



FEB 4 1986

A counseling agency for youth and their families

1836 W. Northern Lights, Anchorage, Alaska 99503

(907) 279-0551

January 21, 1986

Rep. Nilo Koponen
House HESS Committee
Pouch V
Juneau, Alaska 99811

FEB 5 1986

Attn: Lisa McLaren

Dear Rep. Koponen:

I want to thank you for introducing HB 480 to ban corporal punishment in the schools. I have enclosed some materials which you may find informative as you further steer the bill towards consideration. The chart I have enclosed will be introduced tomorrow to the Anchorage School District Corporal Punishment Task Force, on which I serve. Our charge is to recommend any policy changes by the end of next month, and as you can see, I believe the case for banning corporal punishment is overwhelming. It is also true, however, that the presence of bills now in both the House and Senate will stimulate the local districts a bit more--up till now, the sentiment appears to have been to not touch the issue. Your bill helps rectify that sentiment, if for no other reason than the local districts don't like the idea of losing "local control" over a school policy issue. My concern is that this discipline practice be banned, and not to confuse the issue. If it takes a statewide legislative intervention, then so be it.

Thank you for your leadership on this issue. Please call on me if I can provide further help.

Sincerely,

Peter Scales, Ph.D.
Executive Director

APR 17 1985

The National Center For The Study Of Corporal Punishment
And Alternatives In The Schools
Temple University

April 12, 1985

Senator Jay Kerttula
Alaska State Legislature
Fouch V
State Capitol
Juneau, Alaska 99811

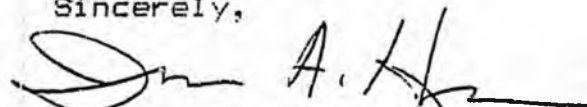
Dear Senator Kerttula:

Thank you for your letter of March 25, 1985. I have received several letters from Alaska which are stimulating my enthusiasm about my forthcoming trip to Anchorage. As you will note from the enclosed brochure, I will be presenting workshops on alternatives to corporal punishment on April 27 and 28, 1985.

I have enclosed our publications brochure, which you may find helpful. I might add that I have testified before state legislatures and the United States Congress on the issues of corporal punishment, discipline, and violence in the schools. I would be glad to meet with you during my trip to Alaska. Bob Waters, president of the Alaska School Psychologist's Association is familiar with my schedule, since he is arranging a few days of sightseeing. You may reach him at 907-346-3148, or 346-2111. Also, Mr. Ozzie Sheakely of the Central Council of Tlingit and Haida Indian Tribes of Alaska in Juneau (907-586-1432) is interested in this issue, and I have advised him of my forthcoming trip. Finally, Heidi Borson, who works for the Alaska State Legislature, has been in touch with me about the same issue (907-465-3991).

I look forward to hearing from you. I will be happy to offer any services which might be useful.

Sincerely,



Irwin A. Hyman, Ed.D.

IH:sbe
encl.



"CHILDREN" by Clement Renzi

APR 2 1985

E V A N - G

End Violence Against the Next Generation, Inc.

977 KEELER AVENUE • BERKELEY, CALIFORNIA 94708 • (415) 527-0454

April 2, 1985

Honorable Jay Kerttula
Alaska State Senate
Pouch V
State Capitol
Juneau, AK. 99811

Dear Senator Kerttula:

Thank you for your letter requesting information about possible legislation for ending or controlling the use of implements to physically punish students in the schools.

As you know physical punishment of recruits in the armed forces has long been forbidden. The Department of Defense, Office of Dependents Schools, also forbids corporal punishment in overseas schools for army children.

Every state has laws forbidding the physical punishment of prisoners, juvenile delinquents and others in custody. Even the last law permitting husbands to reasonably chastise their wives was repealed in the 1950's.

Non-criminal minors are the only category of the population that may be legally punished by physical means and although most state laws mention "reasonable," no definition has ever been agreed upon.

To correct this situation, the National Education Assn. recommended a model law in 1972 (enclosed) which seems to cover most contingencies. Teachers are permitted to defend themselves and others. They may physically separate fighters, but they may not subsequently punish them by hitting them.

We recommend this law as the most reasonable.

Another possibility is the New York method, in which the Board of Regents (State Board of Education) simply forbids the use of corporal punishment as conduct unbecoming a teacher. Under these circumstances, hitting children becomes a cause for dismissal and loss of tenure, but not a criminal offense. There are several advantages to this

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GERTRUDE WILLIAMS, Ph.D., St. Louis, Mo.
DAVID WINEMAN, Ph.D., Detroit, Mi.
PHILIP ZIMBARDO, Ph.D., Stanford, Ca.

particularly since juries are often unwilling to indict a teacher if it can be proved that the child was provocative. Our prisons are overcrowded as it is, and all that really needs to be done with a teachers who loses his temper and is likely to hurt the children is to get him out of the classroom and into an occupation where he can deal with his peers instead of vulnerable little ones.

In California we tried for total abolition but the votes were not there in 1975, so the bill was amended to include unless parents have given their written approval. This law has worked fairly well, and has reduced the amount of corporal punishment well below .4 of 1% of the school population. (Alaska reported itself at 1.58%) The law provides that those school districts that choose to use corporal punishment at all must request of every parent in the district a signature either approving or not approving of physical punishment for their particular child. This approval may be revoked at any time and must be renewed each September. Many districts found the paper work too cumbersome and since they used paddles rarely in any case, they simple abolished and are pleased with the results. Los Angeles was the only district that abolished, restored and abolished again. (See story in The Last Resort.)

As listed in our brochure, an impressive list of national organizations now disapprove of physical punishment. They can be counted on to support efforts to bury the paddles in Alaska, too.

I hope this answers most of your questions. If not, please feel free to call on us again. We will help in any way we can.

Sincerely,



Adah Maurer, PhD

486
MAY 04 1985

MORRIS A. WESSEL, M. D.
ROBERT G. LACAMERA, M. D.
878 HOWARD AVENUE
NEW HAVEN, CONN. 06511

April 28, 1985

Senator Jay Kerttula
State Capitol
Alaska State Legislature
Juneau, Alaska 99811

Dear Senator Kerttula:

I am delighted to learn of your your Senate Bill # 282 dealing with the use of corporal punishment in schools. As you probably are aware, The Society of Adolescent Medicine, the American Public Health Association, the American Academy of Pediatrics, and the American Pyschological Association have all taken firm stands against the use of corporal punishment in schools.

As a pediatrician, I believe that particularly when administered in anger, physical punishment impairs a child's trust and confidence in the very individuals he loo^s to for love, help and guidance. It is humiliating and demeaning. It portrays the idea that might makes right, and that size, brawn and position in the adult world entitles one to inflict pain on younger and smaller individuals. And at times it results in severe physical injuries necessitating medical care, at times hospitlization.

I do congratulate ^{you} on your bill, and let me know if I can do anything to help support the passage of this important policy.

Sincerely yours,

Morris A. Wessel
Morris A. Wessel, M.D.

CC. John Tower
Adah Maurer.

John Tower
Adah Maurer

OCT 4 1985

9420 Arlene St.
Anchorage, AK 99515
October 1, 1985

Senator Jalmar Kerttula
Box Z, Palmer 99645

Dear Senator Kerttula,
I understand from
reading the Anchorage Daily
News that you have filed a
bill to prohibit corporal
punishment in Alaska
schools.

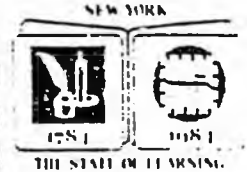
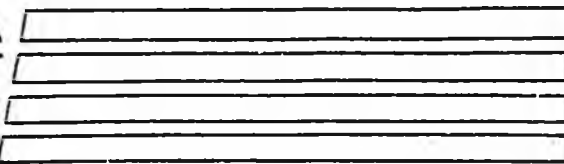
I must say that I strongly
support your position, and I
urge you to pursue this
issue in full-force.

Corporal punishment is a
violation of a child's rights
and breeds no positive
benefits.

Thank you for taking
action on this issue. It's
time something was done
about this unhealthy
practice.

Sincerely,
Kelly Buswell

APR 15 1985



THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK
Office of Public Information • Arnold Bloom, Director • Chris Carpenter, Assistant Director • Albany, New York 12241 • Telephone 473-3311

FOR RELEASE AT NOON, FRIDAY, FEBRUARY 22, 1985

REGENTS VOTE TO

PROHIBIT CORPORAL PUNISHMENT

The Regents voted today to prohibit the use of corporal punishment in the State's public schools. The action came in the form of an addition to the Rules of the Board of Regents and follows lengthy discussion of the topic.

The rule adopted by the Regents states: "No teacher, administrator, officer, employee, or agent of a school district in this State, or of a Board of Cooperative Educational Services, shall use corporal punishment against a pupil."

Corporal punishment is defined as "any act of physical force upon a pupil for the purpose of punishing that pupil."

However, the new rule does not prohibit the use of reasonable physical force in situations in which alternative procedures and methods not involving the use of physical force cannot reasonably be employed for the following purposes:

- (1) To protect oneself from physical injury.
- (2) To protect another pupil or teacher or any other person from physical injury.
- (3) To protect the property of the school or others.
- (4) To restrain or remove a pupil whose behavior is interfering

(more)

CORPORAL PUNISHMENT -- Page 2

with the orderly exercise and performance of school district functions, powers and duties, if that pupil has refused to comply with a request to refrain from further disruptive acts.

-30-

Discussion

The current study is an attempt to test some of the educational assumptions used to justify the majority opinion of the Supreme Court. A major assumption is that corporal punishment is an accepted form of discipline and that there is no trend toward its elimination. The data collected in this survey clearly demonstrate that many school districts have eliminated corporal punishment as a form of discipline. While this preliminary survey does not reveal the actual number of schools in the United States which have abolished corporal punishment, it is obvious that there is a sizeable number when one includes all of the schools in New Jersey, Massachusetts, Maine and Hawaii. The responding schools represent about two million students who function in schools without the use of corporal punishment. Again, there are limitations regarding trends but sixty-nine per cent of the responding schools have eliminated the practice within the last ten years. This would clearly indicate that within the total historical

perspective of one hundred years of public education there is a discernible trend towards the elimination of corporal punishment. Since this survey is based on a limited population and a response rate of fifty-five per cent, we cannot explicate the exact rate of the trend.

The Court maintained that corporal punishment is somehow related to the control of students in order to assure group discipline and decorum. If this were true, one would question what has occurred in the schools of New Jersey, Massachusetts, and the many districts surveyed in the study. While there were differing responses regarding the changes in frequency of disciplinary problems following the elimination of the use of corporal punishment, only one district reported a belief that an increase in problems resulted from the elimination of corporal punishment. Fifteen districts (42%) reported no change in the number of disciplinary problems. Twelve districts (33%) were unable to respond to the question. One might, perhaps spuriously, assume that no noticeable changes occurred in those districts. The total data examined in regard to change in discipline indicated that the elimination of corporal punishment is not a serious threat to decorum or the learning climate. Of special interest are the reasons why corporal punishment was eliminated and not reinstated.

Nine school districts (22%) voluntarily eliminated the practice because they felt it to be ineffective. Additionally,

four districts (9.8%) felt that there were better ways to achieve positive discipline, and three districts (7.3%) felt there were equally effective measures. Therefore, thirty-nine per cent felt that corporal punishment was really not necessary. Additionally, one district discontinued on the basis of the inherent inhumaneness of the practice.

Table 3 indicated that there are many alternatives to corporal punishment. Most authorities recognize the intrinsic worthlessness of suspensions to correct children's behavior (Hyman, McDowell, Raines, 1977; Edelman, 1975) yet the districts reporting continue to use this method (69%). However, as is indicated in Table 3, many other educationally sound methods of discipline are used as alternatives to corporal punishment. The data may be misleading since most districts listed at least three alternatives. An interesting commentary is the evidence that many teachers and administrators, when surveyed, expressed the need for training in positive methods of discipline.

ATTACHED ARE COPIES OF THE FRONT PAGES FROM PERTINENT REFERENCE
BOOKS ON CORPORAL PUNISHMENT.

COPIES OF THESE BOOKS ARE ON FILE IN SENATOR KERITULA'S OFFICE.

APR 29 1985

THINK TWICE:

**THE MEDICAL EFFECTS
OF PHYSICAL PUNISHMENT**

Lesli Taylor, M.D.
Adah Maurer, Ph.D.

Illustrations by
Marianna Grenadier

THE INFLUENCE OF
CORPORAL PUNISHMENT
ON LEARNING:

A STATISTICAL STUDY

— by —

ADAH MAURER

and

JAMES S. WALLERSTEIN

Issued by:

The Committee to End Violence Against the Next Generation

977 Keeler Avenue

Berkeley, California 94708

THE INFLUENCE
OF SCHOOL
CORPORAL PUNISHMENTS
ON CRIME

— by —
ADAH MAURER
and
JAMES S. WALLERSTEIN

APR 29 1985



THE BIBLE AND THE' ROD

- BY -

ADAH MAURER

and

JAMES S. WALLERSTEIN

Issued by:

The Committee to End Violence Against the Next Generation

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Berkeley, California 94708

APR 29 1985

1001

**ALTERNATIVES
TO
CORPORAL PUNISHMENT**

VOLUME ONE

ADAH MAURER, Ph.D.

TABLE ONE
THE AFTERMATH OF PHYSICAL PUNISHMENT (Ages One to Ten)

	Never	Rare	Moderate	Severe	Extreme
Violent Inmates San Quentin	0	0	0	0	100%
Juvenile Delinquents	0	2%	3%	31%	64%
High School Drop-outs	0	7%	23%	69%	0
College Freshmen	2%	23%	40%	33%	0
Professionals	5%	40%	36%	17%	0

Extreme implies need for medical attention

Severe means the use of an instrument: Strap, Paddle, Cane

Moderate includes open hands slaps and "spanks"

Indeed, Dr. Ralph Welsh proposed "*The belt theory of juvenile delinquency*". The more a kid is beaten in early youth, the more likely he (or she) is to become a lawbreaker. (16)

In a letter of Chief Justice Burger, protesting the Supreme Court decision in *Ingraham v. Wright*, the noted psychologist declares: "The single most important correlate of juvenile delinquency is severe parental punishment". (17)

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On Hitting Children

To the National Institute of Mental Health, "violence against children" means more than dramatic incidents that make newspaper headlines and television dramas. Its definition means everything from a slap to murder — and the good news is that it's decreasing.

The institute reported at the recent National Conference on Child Abuse and Neglect that in the last 10 years the number of parents reporting severe violence has declined by 23 percent, and very severe violence by 47 percent.

The steady rise in reports of child abuse does not necessarily contradict the study, based on a survey of 1,428 intact families. It points to increased public awareness of an American tragedy — the abuse and neglect of more than a million children each year. Conference participants hope that figure can be reduced 20 percent by 1990.

But if American parents are now less apt to kick or beat their children, they're still not inclined to spare the rod. Almost two-thirds of those surveyed admit they practice some violence, mostly spanking and slapping, and mostly on their youngest children.

Furthermore, those spansks and slaps are a matter of conviction. Dr. Richard Gelles is an author of the institute's report and a parent who doesn't believe that corporal punishment improves character. When he says so on TV, he's deluged with angry callers. And when a colleague of his wanted to compare the children of spanking and nonspanking parents, he couldn't find enough of the latter to do the study. Too bad. American households are the scene of eight million violent incidents every year. A study like that might tell us if it has anything to do with the way the twig is bent.

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Lotter: On Flood Control

Southern States Are Paying Their Share

Editor:
the "Perk Barrel"

ghenies and including western por
tions of Pennsylvania and New York
and southern portions of four Cana-

sors already pay about 18 percent of
project costs by furnishing required
lands, easements and rights-of-way.
Since the M.R.&T. program was
started, these local contributi

May 8, 1985

Children have testified that corporal punishment is not only traumatizing to the child, but equally to other children in the classroom. Some children have been "nervous wrecks" after an incident of paddling. Children often end up not liking the teacher who is supposedly re-enforcing his authority. Many times students side with the other student even though they fully realize he/she has done something wrong.

ANCHORAGE SCHOOL DISTRICT

- f. If any more serious sanctions are proposed (such as suspension or expulsion for chronic or malicious destruction or theft of library books), the normal procedures for suspension or expulsion shall be afforded such student.

454 Corporal Punishment

454.1 Provisions

- a. Corporal punishment is defined as punishment applied to the body of the student.
- b. Striking a student on the ears, face, or head is forbidden. Corporal punishment shall be discouraged. However, if, after other types of discipline have failed and corporal punishment seems necessary, it must be reasonable, administered by the principal, witnessed by an adult, and never in the presence of other children.
- c. Parental permission must be obtained before corporal punishment is administered, and only after conference with the parent or guardian of the student concerned.

(Section 454 Revised by School Board on June 25, 1984)

455 Trespassing

All persons are welcome on District property when they are there for legitimate purposes.

All persons other than staff (including students from other schools) must check in with the proper authority in charge, normally the school office, in order to establish the legitimacy of their presence, prior to proceeding to other areas of the school. Persons who do not have a valid reason for their presence shall be denied access to the District property. Individuals who proceed on the District property without proper authorization shall be treated as trespassers and shall be subject to prosecution under relevant state statutes and/or municipal ordinances.

458 Student Government

458.1 Student Council

Students at each school have the right to elect a representative student government.

458.2 Student Advisory Board

(See Policy 173.2.)

CORPORAL PUNISHMENT

- A. Reasonable corporal punishment may be administered by the Principal or his/her designee, after other reasonable corrective measures have been used without success, or in circumstances involving the physical safety of other students. It will be administered only in the Principal's office and in the presence of another professional staff member. Parents shall be advised of the decision to administer such punishment and the supportive reasons therefor. A staff member may, however, use reasonable physical force against a pupil without advance notice to the Principal when it is essential for self defense, the preservation of order, or for the protection of other persons or the property of the School District.
- B. The Superintendent shall develop by regulation an alternative disciplinary procedure for use in instances where parents specifically object to the use of corporal punishment.

Mat-Su

Adoption Date: 8/19/85

CORPORAL PUNISHMENT

Reasonable discipline may include the administering of corporal punishment to a student, subject to the following requirements:

1. The corporal punishment shall not be excessive or unduly severe, nor shall any punishment be administered on or about the head of any student.
2. Corporal punishment shall never be used as a first line of punishment for misbehavior unless the pupil was informed beforehand that specific misbehavior could occasion its use; provided however, that corporal punishment may be employed as a first line of punishment for those acts of misconduct which are so antisocial or disruptive in nature as to shock the conscience.
3. Corporal punishment must be administered in private in the presence of the Principal or his designee, who must be informed beforehand and in the presence of the pupil of the reason for punishment.
4. The Principal or teacher who administers corporal punishment must provide the child's parent, upon request, a written explanation of the reasons for the punishment and the name of the Principal or his designee who was present.
5. Corporal punishment shall not be administered to a child whose parents or legal guardian have annually, upon the day of enrollment of the pupil, filed with the Principal of the School a statement from a licensed medical doctor stating that it is detrimental to the child's mental or emotional stability, or that the child has a physical disability that would preclude corporal punishment.

Adoption date: January 1981

Legal Reference: (Alaska Law does not forbid corporal punishment.) Ingraham versus Wright, 498F. 2nd 248 (C.A. 5th 1975; Goss versus Lopez, 419 U.S. 565 (1975); Baker versus Owen, 395 F Supp. 294 (D.C. N.C. 1975) See 423 U.S. 907 (1976).

Unalaska School District, Unalaska, Alaska

JGA. Corporal Punishment

Reasonable corporal punishment may be administered by the principal after consultation with the teacher, and only in the presence of another staff member. Reasonable corporal punishment shall be used only as a last resort in the most unusual circumstances and after reasonable corrective measures have been used without success. Prior to administering corporal punishment, if possible, parents should be advised of the decision to administer such punishment and the supportive reasons.

Striking about the head is strictly prohibited and corporal punishment shall be administered in privacy. Corporal punishment shall not be administered in anger, but in a calm and prudent manner. A staff member may, however, use reasonable force against a pupil without advance notice to the principal when it is essential for self defense, the preservation of order, or for the protection of other persons or the property of the District. A parent may request, in writing, that no corporal punishment be used.

Delta/Greely

The Benighted Status of U.S. School Corporal Punishment Practice

by Tobyann Boonin

The U.S. Supreme Court's decision to continue permitting corporal punishment in public schools is now more than a year old. In *Ingraham v. Wright*, four justices dissented, but five (Blackmun, Burger, Powell, Rehnquist, and Stewart) decided that no constitutional violation is involved in using corporal punishment to discipline students.

In continuing to countenance this archaic practice, the U.S. is far behind many European countries. Corporal punishment has been banned in Poland since 1783, in the Netherlands since 1850, in France since 1887, in Finland since 1890, and in Sweden since 1958. It is also prohibited in the Soviet Union and almost all the other Communist bloc countries.

In 1853 the Indiana Supreme Court (*Cooper v. McJunkin*) commented thus:

The public seems to cling to the despotism in the government of schools which has been discounted everywhere else. The husband can no longer chastise his wife nor the master his servant or apprentice. Even the degrading cruelties of the naval service have been arrested. Why the person of the schoolboy should be less sacred in the eyes of the law than that of the apprentice or the sailor is not easily explained.

In many U.S. cities corporal punishment is used excessively; as recently as 1975-76 it was used as a negotiating item in a Pennsylvania school system where, after a settlement on many other items, the American Federation of Teachers local insisted that the contract give teachers the undisputed right to strike children. An eight-week strike was finally ended when it was agreed that the school board would once again vote to restore corporal punishment.

Concerned about the prevalence of corporal punishment, I sent questionnaires to all 50 state commissioners or superintendents of education. Eighty percent responded to the first mailing; the re-

maining 20% returned their questionnaires in response to a follow-up reminder. This 100% response shows, I believe, that there is a keen interest in the subject.

According to the survey, 40 states authorize school corporal punishment by law (but 37 do not even define it). A total of 41 chief state school officers admit that corporal punishment is administered within their state boundaries. Only two states, Massachusetts and New Jersey, neither legally authorize nor administer corporal punishment.

In one of the four states in which corporal punishment is not sanctioned by law but is nevertheless administered, my respondent justifies its use by saying, "Although corporal punishment is not a creative method of discipline, it certainly establishes immediate contact with pupils." (Who will dispute that?) The other three respondents in this category claim that, in isolated cases, corporal punishment is the only means of correcting an unruly child, and though illegal its use is overlooked by authorities.

In almost all cases where corporal punishment is authorized, it is used only with children in grades K-8. Even in these grades, it is rarely used on girls. Most often the "frail male" is the child who is physically punished. In many cases a student bill of rights and responsibilities protects high school students from such treatment. Thus the students who are more capable of striking back are treated more humanely.

The survey also shows that most school districts require that corporal punishment be administered by a principal or a teacher. In some cases, however, its use is permitted by noncertificated personnel. In most states a witness (frequently, the school nurse) must be present when corporal punishment is administered.

Many of those who responded to the questionnaire made the distinction -- and it's an important one -- between physical force and self-defense. It is easy to justify the use of physical force by school personnel to quiet a disturbance that threatens their own safety or the well being of students. It is also understandable when

they use force to obtain possession of weapons or other dangerous objects. These actions, however, cannot be defined as corporal punishment, for they are not premeditated, and they are not performed for the purpose of correction or discipline.

Many respondents, even in those states where corporal punishment is widely used, said that children learn negative lessons from physical force. They learn that violence is an accepted behavior.

Educators who answered the questionnaire pointed to the need for other, more effective means of discipline.

Fresh Look Needed

The advent of new educational philosophies and new facilities such as the open classroom has necessitated a fresh look at the subject of discipline. Ungraded classrooms, team teaching, learning centers, and even movable furniture have made the entire atmosphere of the classroom different, and these changes have affected discipline. The kinds of student behavior found in a strict, structured classroom setting where nailed-down desks, folded hands, and silence are the order of the day can not and should not be expected in these new classrooms. We must, however, identify constructive and effective methods of maintaining an appropriate learning climate in these kinds of classrooms.

Many school districts are adopting back-to-basics programs that call for stricter discipline. This kind of classroom organization should in no way condone the use of corporal punishment, however. It should give children a set of rules and limits. Students can be taught to function within clearly defined limits and thus learn self-discipline.

No matter what kind of classroom we choose, we have to remember that discipline must not be used interchangeably with corporal punishment. Constructive discipline is a positive means of managing a classroom; corporal punishment is an exceedingly negative one.

TOBYANN BOONIN is a member of the Board of Education, School District of Philadelphia, Pa.

Phi Delta Kappan

Alaska State Legislature

Advisory Council Members
Senator Bennett, Chairman
Senator Kerttula
Senator Abood
Senator Sackett



Pouch V
State Capitol
Juneau, Alaska 99811
Phone: (907) 465-3114

SENATE ADVISORY COUNCIL

MEMORANDUM

TO: Senator Kerttula
FROM: Carol R. Berryhill *CRB*
Research Assistant
DATE: April 9, 1985
RE: Corporal Punishment in Schools

The National Conference of State Legislatures informed me that eight states have abolished corporal punishment in their schools; Hawaii, Maine, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, and Vermont. Puerto Rico has also abolished corporal punishment in schools.

Attached are copies of the most recent statutes of seven of the aforementioned states, including Puerto Rico. Several of the statutes are rather vague as the term "corporal punishment" is not mentioned. The State of New York abolished corporal punishment in its schools by passing an amendment to the Rules of the Regents. The State of Rhode Island is locating the information for me at this time. As soon as I receive copies of the information from both states I will forward them to you.

If I may be of further assistance in this matter, please contact me.

Attachments:

His name

Sec. 298-15

EDUCATION

The privilege of such release shall be withdrawn by the department in case the pupil does not actually attend the sessions of religious instruction. No teacher of the public schools shall participate in such religious instruction during the school hours for which he is employed to teach in the public schools, and no public funds shall be used directly or indirectly for such religious instruction, at any time when its use would otherwise be required in connection with the regular program of the school. [L 1929, c 134, §§1-4; RL 1945, §1835; am L 1945, c 21, §1; RL 1955, §40-15]

Attorney General Opinions

The federal and state Constitutions are not violated when county-owned buses are rented by sectarian institutions to transport public school students to religious education classes. Att. Gen. Op. 66-24.

§298-16 Punishment of pupils limited. No physical punishment of any kind may be inflicted upon any pupil, but reasonable force may be used by a teacher in order to restrain a pupil in attendance at school from hurting himself or any other person or property and reasonable force may be used as defined in section 703-309(2) by a principal or his agent only with another teacher present and out of the presence of any other student but only for the purposes outlined in section 703-309(2)(a). [L 1896, c 57, §34; RL 1925, §307; RL 1935, §722; RL 1945, §1836; RL 1955, §40-16; HRS §298-16; am L 1973, c 145, §1]

Case Notes

Cutting hair of pupil is not a reasonable punishment nor can it be done by either the board of health or department of public instruction as a sanitary measure. If the hair is infected, pupil may be refused attendance until decent, and parent proceeded against under provision for enforcing attendance. 8 H. 54. "Necessary and reasonable" defined, corporal punishment. 24 H. 461.

§298-17 School districts. For the better control and management of the public schools, the department of education may designate school districts, establish their boundaries, and alter the same from time to time as in its discretion it deems most advisable. These districts shall be so arranged that there shall be no unassigned locality. [L 1896, c 57, §40; RL 1925, §329; RL 1935, §751; RL 1945, §1838; RL 1955, §40-17]

§298-18 Attend school in what district. All persons of school age shall be required to attend the school of the district in which they reside, unless it appears to the department of education to be desirable to allow the attendance of pupils at a school in some other district, in which case the department may grant such permission. [L 1896, c 57, §41; RL 1925, §330; RL 1935, §752; RL 1945, §1839; RL 1955, §40-18]

§298-19 Records of pupils; release from attendance. All schools, either public or private, shall keep a correct register of the names, sex, age, and nationality, as far as ascertainable, date of entering school, and the places of residence of the children attending their respective schools. No school shall grant a release to any child under eighteen years of age, who is registered as attending his school, for the purpose of attending another school, unless the consent and approval of the parents or guardians of the child is given in writing with the facts and reasons therefor. The register shall be carefully preserved, and as often as the department

SCHOOLS

of education shall direct office of the department. RL 1935, §753; RL 1945, §298-19; am L 1970, c 45, §2

§298-20 Transfer shall receive any child school of the same class school to be entered, a child if the child applies to a school shall be required or a child desiring to enter a school producing a certificate district. [L 1896, c 57, RL 1945, §1841; RL 1970, c 45, §2]

§298-21 School public school without operate stores or to sell ches, milk, ice cream educational program standardization of program necessary school support ment of education shall regulations in conformity section. [L 1933, c 1 HRS §298-21; am L 1970, c 45, §2]

Disposition of trade

§298-22 Use board of education of the city and grounds available : is made, for use by whenever such ca activities of the school RL 1955, §40-25:

References to "rec §6-3.1.

§298-23 L All public school recreational purp these activities d

Maine

This section permits property owners to use reasonable and non-deadly force to prevent theft or destruction of their property. The use of deadly force, however, is to be governed by the section on that subject.

Historical Note

The 1975 amendment substituted and 108" for "under such circumstances only in defense of a person are prescribed in sections 104, 107, as prescribed in section 108".

Cross References

Nondeadly disabling chemicals, use, see § 1002 of this title.

Library References

Assault and Battery ⇨89. C.J.S. Assault and Battery §§ 94, 95.
Homicide ⇨124. C.J.S. Homicide §§ 110, 111.

Notes of Decisions

In general 1
Jury questions 2

that it could, on the evidence before it, find that defendant had actually used deadly force, and so constituted prejudicial error. State v. Williams (1981) Me., 433 A.2d 765.

1. In general

Evidence of defendant's threatened use of deadly force to prevent alleged theft of property was insufficient to generate issue of "deadly force" for jury's consideration in prosecution for criminal threatening with the use of a firearm in that threat as a matter of law, did not constitute "deadly force"; thus, instruction regarding possible existence of deadly force as an abrogating factor in application of defense of justification had potential of misleading jury into thinking

One is not entitled to use any greater force than he has reasonable ground to believe is necessary in order to secure retention of his property. Id.

2. Jury questions

Whether degree of force used in defense of property was greater than was justified by circumstances is for jury to decide under proper instructions from the court. State v. Williams (1981) Me., 433 A.2d 765.

§ 106. Physical force by persons with special responsibilities

1. A parent, foster parent, guardian or other similar person responsible for the long term general care and welfare of a person is justified in using a reasonable degree of force against such person when and to the extent that he reasonably believes it necessary to prevent or punish such person's misconduct. A person to whom such parent, foster parent, guardian or other responsible person has expressly delegated permission to so prevent or punish misconduct is similarly justified in using a reasonable degree of force.

2. A teacher or other person entrusted with the care or supervision of a person for special and limited purposes is justified in using a reasonable degree of force against any such person who creates a disturbance when and to the extent that he reasonably believes it necessary to control the disturbing behavior or to remove a person from the scene of such disturbance.

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1975

179;

3. A person responsible for the general care and supervision of a mentally incompetent person is justified in using a reasonable degree of force against such person who creates a disturbance when and to the extent that he reasonably believes it necessary to control the disturbing behavior or to remove such person from the scene of such disturbance.

4. The justification extended in subsections 1, 2 and 3 does not apply to the purposeful or reckless use of force that creates a substantial risk of death, serious bodily injury, or extraordinary pain.

5. A person required by law to enforce rules and regulations, or to maintain decorum or safety, in a vessel, aircraft, vehicle, train or other carrier, or in a place where others are assembled, may use nondeadly force when and to the extent that he reasonably believes it necessary for such purposes.

6. A person acting under a reasonable belief that another person is about to commit suicide or to inflict serious bodily injury upon himself may use a degree of force on such person as he reasonably believes to be necessary to thwart such a result.

7. A licensed physician, or a person acting under his direction, may use force for the purpose of administering a recognized form of treatment which he reasonably believes will tend to safeguard the physical or mental health of the patient, provided such treatment is administered:

A. With consent of the patient or, if the patient is a minor or incompetent person, with the consent of the person entrusted with his care and supervision; or

B. In an emergency relating to health when the physician reasonably believes that no one competent to consent can be consulted and that a reasonable person concerned for the welfare of the patient would consent.

8. A person identified in this section for purposes of specifying the rule of justification herein provided, is not precluded

from using force declared to be justifiable by another section of this chapter.

1975, c. 499, § 1, eff. May 1, 1976; 1979, c. 127, § 127, eff. April 23, 1979; 1979, c. 512, § 22; 1979, c. 663, § 121, eff. March 28, 1980.

Comment—1975

This section is patterned on the New Hampshire Criminal Code, § 627:6.

Several statutes deal with the subject matter of this section. Under Title 19, section 218 a parent is guilty of a crime if he "cruelly treats" his child, or uses "extreme punishment." In Title 15, section 2716 the superintendent of a state school is given the same powers as a parent.

It appears that teachers may inflict corporal punishment and incur liability only for the use of excessive force. See *Patterson v. Nutter*, 78 Me. 509, 7A.273 (1886).

In regard to public conveyances, Title 35, section 1171 gives to the conductor a power to eject "in a reasonable manner and at a reasonable place anyone acting in a drunk or disorderly manner." This authority may be exercised against a person who refuses to pay his fare. *State v. Gould*, 53 Me. 279 (1865).

Physicians have an immunity from civil liability when they administer, with due care, emergency medical treatment. Title 32, section 3291.

This section deals with several different roles under circumstances where the use of force is not uncommon.

Subsection 1 permits parents to use force, against their children which they reasonably believe is necessary for punishment or to prevent misbehavior. This would appear to be the same rule as is implied in the statutory prohibition against extreme punishment.

Teachers, however, are not granted authority to use force in order to punish by subsection 2 which thereby changes present law. It is necessary for a teacher to have order so that he may teach, and subsection 2 gives him authority to maintain order when a child is creating a disturbance or when he refuses to leave the classroom or other school area.

Persons in charge of institutions, such as mental hospitals, are given a broader scope of authority by virtue of their 24 hour responsibility for their patients.

Subsection 4 serves to place a legislative limit on what may be deemed reasonable under the first three subsections. That is, the purpose of the subsection is to prohibit death, se-

rious bodily injury, or substantial amounts of pain. Subsection 5 seeks to give authority that is commensurate with responsibility. Subsections 6 and 7 articulate rules which conform with general expectations of what the law permits under the named circumstances.

Historical Note

Laws 1970, c. 127, in subsec. 5 inserted "he" preceding "may use nondeadly force".

Laws 1970, c. 512, without reference to Laws 1979, c. 127, in subsec. 5 substituted "A person" for "Whenever a person is" and deleted "but he

may use deadly force only when he reasonably believes it necessary to prevent death or serious bodily injury" following "for such purposes".

Laws 1979, c. 663 repealed and replaced subsec. 5 as amended by Laws 1979, cc. 127 and 512.

Notes of Decisions

1. Parents

Parent may be subject to criminal law when his punishment of child ex-

ceeds the bounds of reason and moderation. *State v. Coombs* (1978) Me., 381 A.2d 288.

§ 107. Physical force in law enforcement

1. A law enforcement officer is justified in using a reasonable degree of nondeadly force upon another person:

A. When and to the extent that he reasonably believes it necessary to effect an arrest or to prevent the escape from custody of an arrested person, unless he knows that the arrest or detention is illegal; or

B. To defend himself or a 3rd person from what he reasonably believes to be the imminent use of nondeadly force encountered while attempting to effect such an arrest or while seeking to prevent such an escape.

2. A law enforcement officer is justified in using deadly force only when he reasonably believes such force is necessary:

A. To defend himself or a 3rd person from what he reasonably believes is the imminent use of deadly force; or

B. To effect an arrest or prevent the escape from arrest of a person whom he reasonably believes

(1) has committed a crime involving the use or threatened use of deadly force, or is using a deadly weapon in attempting to escape, or otherwise indicates that he is likely seriously to endanger human life or to inflict serious bodily injury unless apprehended without delay; and

- Massachusetts
71 § 37H

Library References

Comment.
Employment of legal counsel for general purposes, see M.P.S. vol. 18, Hardy, § 462.

§ 37G. Corporal punishment of pupils prohibited

The power of the school committee or of any teacher or other employee or agent of the school committee to maintain discipline upon school property shall not include the right to inflict corporal punishment upon any pupil.

Added by St.1972, c. 107, § 1.

Historical Note

St.1972, c. 107, § 1, was approved March 23, 1972.

Law Review Commentaries

Corporal punishment in schools, (1977) 91 Harvard L.Rev. 114.

Library References

Schools §176.
C.J.S. Schools and School Districts § 702.
Comments.
Assault and battery, justification, see M.P.S. vol. 14A, Simpson and Alperin, § 1741.

Corporal punishment as means of discipline, see M.P.S. vol. 37, Nolan, § 155.
Discipline of students, see M.P.S. vol. 18, Hardy, § 437.

United States Supreme Court

Corporal punishment in public schools, application of cruel and unusual punishment provisions of U. S. Constitution, see Ingraham v. Wright, 1977, 97 S.Ct. 1401, 430 U.S. 651, 51 L.Ed.2d 711.

Notes of Decisions

1. In general
Teacher's use of offensive language in classroom and use of corporal punishment after being told by superiors not to use corporal punishment constituted sufficient basis for school committee's determination that teacher should be suspended under § 42D of this chapter providing for suspension of teacher for conduct unbecoming a teacher; thus, school committee could not be held liable in civil rights action to teacher for damages arising out of suspension. Wood v. Goodman (D.C.1974) 351 F. Supp. 413.

§ 37H. Rules or regulations relative to conduct of teachers or students; publication required

The school committee of every city, town or district shall publish its rules or regulations pertaining to the conduct of teachers or stu-

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New Hampshire

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justified in using deadly force against such persons under the circum-
stances described in paragraph II of this section. They are justified in
using non-deadly force when and to the extent they reasonably believe it
necessary to prevent any other escape from such a facility.

VI. A reasonable belief that another has committed an offense means
such belief in facts or circumstances which, if true, would in law constitute
an offense by such person. If the facts and circumstances reasonably be-
lieved would not constitute an offense, an erroneous though reasonable be-
lief that the law is otherwise does not make justifiable the use of force to
make an arrest or prevent an escape.

VII. Use of force that is not justifiable under this section in effecting
an arrest does not render illegal an arrest that is otherwise legal and the
use of such unjustifiable force does not render inadmissible anything seized
incident to a legal arrest.

HISTORY

Source. 1971, 518:1, eff. Nov. 1, 1973.

627:6 Physical Force by Persons with Special Responsibilities.

I. A parent, guardian or other person responsible for the general care
and welfare of a minor is justified in using force against such minor when
and to the extent that he reasonably believes it necessary to prevent or
punish such minor's misconduct.

II. A teacher or person otherwise entrusted with the care or supervi-
sion of a minor for special purposes, is justified on the premises in using
necessary force against any such minor, when the minor creates a disturb-
ance, or refuses to leave the premises or when it is necessary for the main-
tenance of discipline.

III. A person responsible for the general care and supervision of an in-
competent person is justified in using force for the purpose of safeguard-
ing his welfare, or, when such incompetent person is in an institution for
his care and custody, for the maintenance of reasonable discipline in such
institution.

IV. The justification extended in paragraph I, II, and III does not
apply to the malicious or reckless use of force that creates a risk of
death, serious bodily injury, or substantial pain.

V. A person authorized by law to maintain decorum or safety in a
vessel, aircraft, vehicle, train or other carrier, or in a place where others
are assembled may use non-deadly force when and to the extent that he
reasonably believes it necessary for such purposes, but he may use deadly
force only when he reasonably believes it necessary to prevent death or
serious bodily injury.

VI. A person acting under a reasonable belief that another person is
about to commit suicide or to inflict serious bodily injury upon himself may
use a degree of force on such person as he reasonably believes to be neces-
sary to thwart such a result.

EDUCATION

tenure rights in American Red Cross service
tion and other employment rights in military
service saved.

§ 2A. INCENTIVE GRANTS

Program; innovative educational ideas and tech-
nology.
Purpose of act.
Submission of proposals for grant funds.
Review committee; review of grant applications;
Recommendations.
Regulations.
Amount of individual grants.

STATE BOARD OF EXAMINERS

Composition of examiners; membership.
Vacancies.
Organization.
Without payment; reimbursement for expenses.
Duties of the board; issuance and revocation
of certificates; rules and regulations.
Certificates to noncitizens.

CERTIFICATES OF EDUCATION

"Academic certificate" defined.
Requirements for certificate; fee; examination.
Deposit of moneys.
Regulations.
Disabled veterans to certificates.

§ 5. STATE FEDERATION OF BOARDS OF EDUCATION

Organization of district boards of education estab-
lished.
Relationship to state federation.
Duties.

Succession; powers.
Duties of delegates; dues.

EDUCATIONAL SERVICES COMMISSIONS

Establishment.
Appointment of commission; petition.
Organization of establishment; directors; first meeting.
Duties of directors; organization.

New Jersey

EDUCATIONAL INSTITUTIONS 18A:6-1

- Sec.
- 18A:6-55. Membership of board.
 - 18A:6-56. Election; terms.
 - 18A:6-57. Meetings; transaction of business.
 - 18A:6-58. Secretary; compensation; term; bond.
 - 18A:6-59. Powers and duties.
 - 18A:6-60. Executive director.
 - 18A:6-61. Body corporate.
 - 18A:6-62. Budget; preparation and adoption.
 - 18A:6-63. Services; contracts.
 - 18A:6-64. Withdrawal of membership.
 - 18A:6-65. Employment of personnel.
 - 18A:6-66. Rights and benefits of personnel.
 - 18A:6-67. Funds and grants; contracting for, receiving and admin-
istration.
 - 18A:6-68. Bookkeeping and accounting system.
 - 18A:6-69. Enlargement of purposes.
 - 18A:6-70. Application for admission; representative.

Cross References

- Conduct of schools in general, see § 18A:30-1 et seq.
Contracts for use of equipment to examine pupils for tuberculosis, see
§ 30:9-52.1.
Discrimination between public and private day schools, prohibited, see § 30:55-
33.1.

ARTICLE 1. PUBLIC AND PRIVATE EDUCATIONAL INSTITUTIONS

18A:6-1. Corporal punishment of pupils

No person employed or engaged in a school or educational in-
stitution, whether public or private, shall inflict or cause to be
inflicted corporal punishment upon a pupil attending such school
or institution; but any such person may, within the scope of his
employment, use and apply such amounts of force as is reason-
able and necessary:

- (1) to quell a disturbance, threatening physical injury
to others;
- (2) to obtain possession of weapons or other dangerous
objects upon the person or within the control of a pupil;
- (3) for the purpose of self-defense; and
- (4) for the protection of persons or property;

and such acts, or any of them, shall not be construed to consti-
tute corporal punishment within the meaning and intentment of

18A:6-1

EDUCATION

this section. Every resolution, bylaw, rule, ordinance, or other act or authority permitting or authorizing corporal punishment to be inflicted upon a pupil attending a school or educational institution shall be void.

Historical Note

Source: R.S. 18:19-1, amended L.1964, c. 182, § 1.
Prior Laws: L.1903 (2d Sp.Sess.), c. 1, § 112, p. 44 [C.S. p. 4765, § 112].

Library References

Schools and School Districts \hookrightarrow S, C.J.S. Schools and School Districts
164. §§ 9, 11, 502.

18A:6-2. Instruction in accident and fire prevention

Regular courses of instruction in accident prevention and fire prevention shall be given in every public and private school in this state, which instruction shall be adapted to the understanding of the several grades and classes in said schools.

Historical Note

Source: R.S. 18:19-3, amended L.1954, c. 51, § 10; 18:19-5, amended L.1951, c. 51, § 12.
Prior Laws: 18:19-3. L.1931, c. 50, § 2, p. 101, suppl. to L.1903 (2d Sp.Sess.), c. 1, p. 5. 18:19-5. L.1920, c. 118, § 2, p. 253 [1924 Suppl. § 185-448].

Library References

Schools and School Districts \hookrightarrow S, C.J.S. Schools and School Districts
164. §§ 9, 11, 465.

18A:6-3. Courses in constitution of United States

Regular courses of instruction in the constitution of the United States shall be given in all public schools and in all private schools, attendance at which is a sufficient compliance with the compulsory educational requirements of this title in this state, which instruction shall begin not later than the opening of the seventh grade in public schools and of the equivalent grade in private schools and shall continue in the high school course and in courses of state colleges and universities and the educational departments of the state and municipal institutions to the extent to be determined, by rule, by the commissioner or by the chancellor, as the case may be.

Historical Note

Source: R.S. 18:19-7, 18:19-8, 18:19-9; C. 18:21A-41 (L.1966, c. 302, § 41).
Prior Laws: 18:19-7. L.1923, c. 17, § 3, p. 43 [1924 Suppl. § 185-482].
18:19-8. L.1923, c. 17, § 1, p. 43 [1924 Suppl. § 185-480]. 18:19-9. L.1923, c. 17, § 2, p. 43 [1924 Suppl. § 185-481].

EDUCATIONAL INSTI

Library Reference

Schools and School Districts \hookrightarrow S, C.J.
164. §§

Notes of Decisions

I. In general permit
A proposed day school and school in res-
of equitation, devoted to boarding of school
horses and instruction of children in sense
horsemanship and other recreational Wads
pursuits, is not a "private school" of Be
within township zoning ordinance 7S.A.2

18A:6-4. Annual report of insti and private schools

The board, body or person in charge of institution, except an institution of higher port or aid from the state and of ea port, annually on or before August 1, t manner and form required by him, a son in charge of each educational inst receiving support or aid from the stat ner to the chancellor, such statistics such institution or school as he ma school shall be required to report con nances nor shall any such report m: made public.

Historical Note

Source: R.S. 18:3-18; C. 18:21A-4 (L.1966, c. 302, § 41).
Prior Laws: L.1903 (2d Sp.Sess.), c. 1, § 17, p.

Library Reference

Schools and School Districts \hookrightarrow C, C.J.
48(6). §

18A:6-4.1 Security officers of j tional institutions:

Upon application to, and approval State Police security officers of public institutions of this State may be ad conducted by the Division of State P municipal law enforcement officers, such training as determined by the s:

Vermont State

Subchapter 4. Discipline

§ 1161. Repealed. 1983, No. 145 (Adj. Sess.), § 2.

For current provisions relating to discipline of students, see § 1161a of this title.

ANNOTATIONS UNDER FORMER § 1161

1. Constitutionality. This section, as written, does not of itself offend the Cruel and Usual Punishment clause; which is not to say that it may not do so as applied. Roberts v. Way (1975) 398 F.Supp. 856.

1. Moderate chastisement. A teacher has the right, when necessary, to chastise the pupils moderately to maintain discipline, but if the punishment is excessive or improper the teacher is guilty of assault and battery. Roberts v. Way (1975) 398 F.Supp. 856.

This section permits resort only to reasonable forms of punishment, within the bounds of moderation and free from any element of cruelty, and is merely declaratory of the prevailing law of tort liability on the subject of corporal punishment in the schools of the country. Id.

2. Particular punishments. Under allegations that school principal struck eleven-year-old student with his foot and without warning, knocking him to the floor, then kicked him in the abdomen and back and legs and pulled his hair, that the boy suffered severe bruises to the areas kicked, and that the action of the principal was in response to the boy's hitting another boy with a book because he wanted the other boy's seat, the punishment bore a closer relation to assault and battery than to a considered act of discipline, the complaint stated a cause of action for assault and battery under Vermont law, and both the boy and his parent had an adequate remedy under state law for money damages. Roberts v. Way (1975) 398 F.Supp. 856.

3. Cited. Cited in Morton v. Essex Town School District (1981) 140 Vt. 345, 443 A.2d 447.

§ 1161a. Discipline

(a) Each public and each approved school shall have a policy on discipline. The policy shall include standard procedures, and it shall be consistent with this section and with the school district's regulations on suspension and dismissal.

(b) For the purpose of this chapter, corporal punishment means the intentional infliction of physical pain upon the body of a pupil as a disciplinary measure.

(c) No person employed by or agent of a public or approved school shall inflict or cause to be inflicted corporal punishment upon a pupil attending the school or the institution. However, this section does not prohibit a person from using reasonable and necessary force:

- (1) to quell a disturbance;
- (2) to obtain possession of weapons or other dangerous objects upon the person of or within the control of a pupil;
- (3) for the purpose of self defense; or

notice to the person having the control of the child absent from school without cause, or the person to cause the child to attend school.

If such notice, a person fails, without good cause, to cause the child to attend school as required by this section, the person shall be fined not more than \$1,000.00.

Whenever a person fails to cause the child to attend school as required by this section, the person shall forthwith enter a complaint to the court in which such person resides, or to the court in the county, and shall furnish him with a copy of the complaint, and the attorney for the person shall prosecute the person.

Whenever a complaint, information or indictment shall be returned against a person, it shall state that the respondent, (naming him) is a person of school age, (naming him) neglects to cause the child to attend school as required by law, or that the respondent is an approved program of home instruction. Amended 1981, No. 151 (Adj. Sess.),

Subsection (a): Minor changes were made in

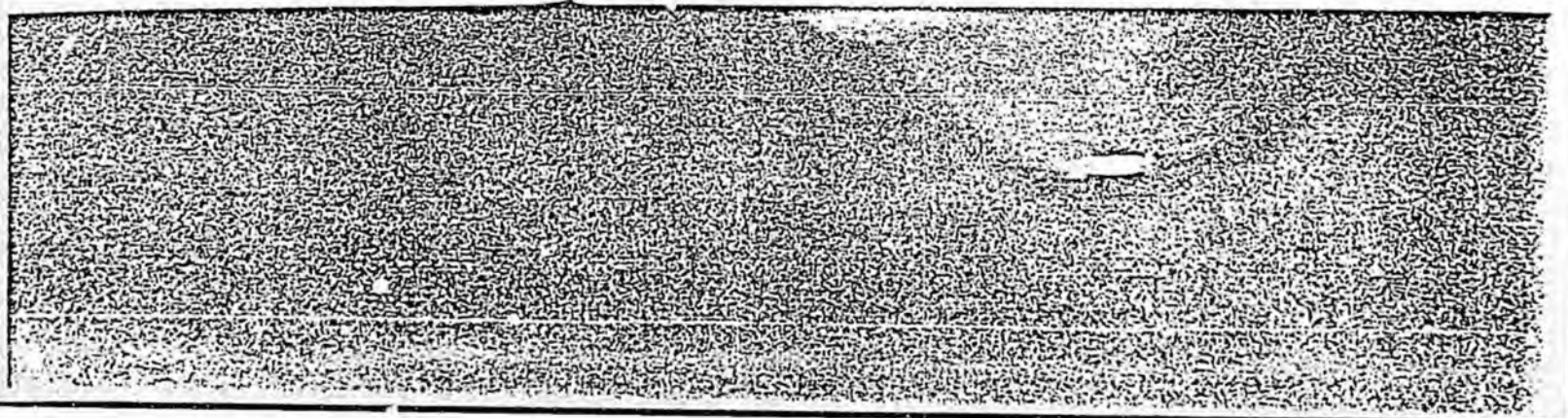
the penalty was increased from "shall be fined not more than \$1,000.00" for "shall be fined not more than \$500.00."

The phrase "neglects to send the child to school or an approved or reporting private program of home instruction as required by law" was substituted for "neglects to send such child to school as required by law," and the word "neglects" was changed to "fails to cause the child to attend school as required by law."

prosecution against parents, charging them for failure to cause the child to attend school as required by law, shall be considered in the light of the fact that the defendant is essentially subjecting defendants to criminal penalties and the burden of establishing by the requisite elements of the criminal act. State v. LaBarge 134 Vt. 276, 357 A.2d 121.

The phrase "officer gave parents notice, required by this section, that the child is not attending an approved program of home instruction" was substituted for "the only precedent notice, defined the grounds for the charge against the parents in criminal prosecution." 134 Vt. 276, 357 A.2d 121.

Section 1121 of this title requiring persons having charge of a child to cause the child to attend a public school unless, in one of the following cases, the child is otherwise being furnished "equivalent education", would not be taken to mean instruction at all. Section 166 of this title requiring private instruction in the state; and where criminal prosecution against a person is based solely on fact their children were attending a school, the essential determination that the children were not soundly founded and the informations were properly dismissed. State v. LaBarge (1976) 134 Vt. 276, 357 A.2d 121.



(4) for the protection of persons or property.—Added 1983, No. 145 (Adj. Sess.), § 1.

§ 1162. Suspension or dismissal of pupils

A superintendent or principal may, pursuant to regulations adopted by the governing board, suspend, or with the approval of a majority of the members of the governing board of the school district, dismiss or expel a pupil for misconduct when the misconduct makes the continued presence of the pupil harmful to the welfare of the school. Nothing contained in this section shall prevent a superintendent or principal from removing immediately from a school a pupil who poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process of the school.—Amended 1977, No. 33, § 3; No. 130 (Adj. Sess.).

1977 (Adj. Sess.) amendment. Provided that a superintendent or principal may suspend, in accordance with regulations, a pupil for misconduct.

1977 amendment. Amended generally to provide for the suspension of pupils.

1. Construction with other law. Section 563 of this title, granting to school boards the general power to establish education policies and to prescribe rules and regulations for the conduct and management of schools, including student discipline, does not conflict with, and therefore give way to this section, which authorizes, but does not require, school boards to delegate the power to suspend or expel students. *Rutz v. Essex Junction Prudential Committee* (1983) 142 Vt. 400, 457 A.2d 1368.

2. Purpose. The purpose of this section is to prescribe the conditions under which school boards, by the adoption of appropriate regulations, may authorize certain officials to suspend, dismiss or expel students, and in the absence of regulations adopted for that purpose, the enumerated disciplinary powers remain with the boards. *Rutz v. Essex Junction Prudential Committee* (1983) 142 Vt. 400, 457 A.2d 1368.

3. Regulations. The purpose of this section is not to limit the authority of school boards in disciplinary matters, and it does not mandate that boards must adopt regulations in favor of superintendents or principals. *Rutz v. Essex Junction Prudential Committee* (1983) 142 Vt. 400, 457 A.2d 1368.

4. Well being of other students. Expulsion of a student based on a finding that the sale of marijuana on school property gravely affected the well being of other students enrolled within the school district satisfied the spirit of the standard prescribed in this section which empowers the expulsion of a student when the misconduct makes the presence of the pupil harmful to the welfare of the school. *Rutz v. Essex Junction Prudential Committee* (1983) 142 Vt. 400, 457 A.2d 1368.

§ 1164. Repealed. 1977, No. 33, § 6.

§ 1165. Alcohol and drug abuse

(a) The state board, in consultation with local school boards, the alcohol and drug division, the law enforcement authorities and the juvenile court system shall formulate a general policy for the educa-

tion, discipline and referral for students involved with alcohol or drug abuse.

(b) The state board shall establish standards consistent with due process for the suspension or dismissal of students and for referral for treatment, and for referral for treatment.

(c) Each school district shall comply with the state board's guidelines and procedures for education; referral for treatment; and standards consistent with discipline, suspension or dismissal of students under section 1162 of this title. Nothing in this section shall prevent local school districts to provide for the rehabilitation.

(d) Each school district shall report to the commissioner within thirty days of its suspension or dismissal.

(e) No municipality, school district or the school district shall be held liable for the implementation of any regulation under this section so long as they have acted in good faith and in violation of the constitution.

(f) No later than July 1 of each year the commissioner shall file a report with the commission which shall include but not be limited to a report on the apparent effectiveness of the program required under section 90 of this title on the use of funds for the treatment of students with problems of alcohol and drug abuse.

(g) The commissioner of education shall submit to the state board an annual report concerning the state of alcohol and drug abuse education in the schools. —Added 1979, No. 62, § 1, No. 51, § 4, eff. April 22, 1983.

Revision note. Subsections (e) and (f) were redesignated as subsections (e) and (f) with lettering of section.

1983 amendment. Subsection (f): Deleted. Subsection (g): Added.

Policy and guidelines. 1979, No. 62, § 1, No. 51, § 4, eff. April 22, 1983. The state board shall formulate its policy and guidelines for subsections (a) and (b) of section 1165.

entitled to request and enjoy leave without pay up to the termination of the first school semester. If [not] elected, he may return to his former position, if he so desires, with the same rights and prerogatives he had at the time of applying for leave. If his position is occupied or if there is no vacant position of the same category in his school district, the Secretary of Education shall extend a special leave with pay up to the official commencement of the second school semester. If said teacher is elected, the Secretary of Education shall extend the leave without pay granted to him for the duration of his incumbency in office, if the teacher so desires.—June 30, 1960, No. 25, § 6; June 27, 1961, No. 124, p. 268, eff. 90 days after June 27, 1961.

HISTORY

Codification.

Bracketed material inserted to conform with Spanish text.

Amendments—1961.

The 1961 Act amended this section generally.

Repeals.

Section 2 of Act June 27, 1961, No. 124, provided: "All laws or part of laws in conflict herewith are hereby expressly repealed."

Cross references.

Procedure for cancellation of teachers' certificates, see sections 274-274a of this title.

§ 249e. —Discrimination; reprisal

The school authorities and all other authorities are hereby enjoined from all discrimination or reprisal against a teacher by reason of his affiliation, creed and political actions; and it is further forbidden that the circumstances mentioned above be taken into consideration in deciding questions such as transfers, work assignment, salary raises, promotions, scholarships, leaves of absence, and any other matters relative to the teacher's professional work or status.—June 3, 1960, No. 25, § 7, eff. June 3, 1960.

HISTORY

Cross references.

Procedure for cancellation of teachers' certificates, see sections 274-274a of this title.

§ 250. Corporal punishment

Corporal punishment is absolutely prohibited in the schools of Puerto Rico, except in accordance with regulations issued by the Secretary of Education in pursuance of this section, section 142 of

sections 3 and former section 89 of the Constitution of the Commonwealth and upon the sanction of the Act of June 6, 1953; Mar. 10, 1910, No. 10, eff. July 25, 1952.

Codification.

"Commissioner" was changed to "Secretary of Education" by Act No. 6, Words "the Organic Act" of the Commonwealth" upon authority of Act No. 3, 1950, c. 446, 64 Stat. 320.

Prior law.

Similar provisions were contained in Act No. 251, Repealed. Apr. 23, 1931.

Repeals.

Section 251, which was section 251, related to requirement of at least one year of high school and city maintaining a graded system.

§ 252. Professional admission

For the purpose of admission to a certificate or diploma of principal or diploma of principal shall be equivalent to a high school diploma if the applicant has practiced for two years as a principal or as an elementary school teacher in the Commonwealth of Puerto Rico.—Mar. 12, 1931, Act No. 251, Repealed. Apr. 23, 1931, No. 30, p. 330.

Prior law.

Similar provisions appeared in Act No. 253, Exchange of teachers between countries.

§ 253. Exchange of teachers between countries

The Secretary of Education shall enter into negotiations for the exchange of teachers from the United States and other democratic governments.—July 24, 1952, No. 6, p. 10, eff. July 24, 1952.

Title 3 and former section 89 of the Codified School Law, and the Constitution of the Commonwealth, and other legislative sanction and upon the sanction of the parent or guardian.— Mar. 12, 1903, p. 60, § 53; Mar. 10, 1910, No. 48, p. 147, § 1; July 24, 1952, No. 6, p. 10, eff. July 25, 1952.

HISTORY

Codification.

"Commissioner" was changed to "Secretary" pursuant to Act July 24, 1952, No. 6. Words "the Organic Act" were changed to "and the Constitution of the Commonwealth" upon authority of Public Law 600, Act of Congress of July 3, 1950, c. 446, 64 Stat. 320.

Prior law.

Similar provisions were contained in Act Jan. 31, 1901, p. 29, § 25.

§ 251. Repealed. Apr. 23, 1931, No. 30, p. 330, § 7.

HISTORY

Repeals.

Section 251, which was section 40 of Act Mar. 12, 1903, p. 60, as amended, related to requirement of at least one teacher of English in every village and city maintaining a graded system of schools.

§ 252. Professional admission by principal teacher's certificate

For the purpose of admission to any professional career, a certificate or diploma of principal teacher, acquired in Puerto Rico, shall be equivalent to a high-school diploma after its holder shall have practiced for two years or more as an elementary school principal or as an elementary school teacher in any public school of Puerto Rico.—Mar. 12, 1903, p. 60, § 38; Mar. 10, 1904, p. 64, § 6; Apr. 23, 1931, No. 30, p. 330, § 2, eff. 90 days after Apr. 23, 1931.

HISTORY

Prior law.

Similar provisions appeared in Act May 20, 1919, No. 12, p. 120.

§ 253. Exchange of teachers between Puerto Rico and democratic countries

The Secretary of Education is hereby authorized to carry out negotiations for the exchange of Puerto Rican teachers and teachers from the United States and from foreign countries ruled by democratic governments.—May 6, 1938, No. 127, p. 269, § 1; July 24, 1952, No. 6, p. 10; June 3, 1960, No. 22, § 2, eff. July 1, 1960.

4-3-85
FRONT

35 assault charges against Big Lake teacher

By DEBORAH HEIDECKER
PALMER—A Big Lake elementary special education teacher was charged Monday by the district attorney's office here with 35 counts of fourth-degree assault.
Vernon W. Christiansen, 36, of Big Lake is accused of physically assaulting eight male students, ages 11 to 13, over a six-month period that began last September.
Christiansen, who has not been teaching since the investigation began in February,

is believed to be in California, according to court records.
Charges by the district attorney filed Monday in Palmer Superior Court state that Christiansen routinely kicked the backs of his students' chairs, knocking them into tables and causing them to hurt their stomachs.
The charging documents also allege that Christiansen grabbed an 11-year-old boy by the throat and slammed him into a wall, and picked up a 12-year-old boy by "putting his hands on his

neck and putting his fingers in the glands along the inside of his jawbone, causing pain."
The same 12-year-old boy told Alaska State Trooper Karma Van Gelder that Christiansen kicked his chair out from under him and continued kicking his arms and legs until he got up from the floor.
Christiansen is additionally charged with throwing an eraser at an 11-year-old boy, striking him in the eye.
All of the children who were

interviewed by Van Gelder, and whose statements were used in the charges against Christiansen, are former students of the accused from this year or last year.
Christiansen allegedly stated in an interview that he believes that intimidation is an important factor in getting children to learn, according to court records.
Christiansen was suspended with pay from the Mat-Su Borough School District, pending the district's own

investigation of the allegations.
"Since the incident happened that brought the matter to light, he has not been in the classroom. Because of pending personnel actions and criminal charges, any comment would be inappropriate at this time," said Peter Partnow, an Anchorage attorney representing the school district.
District Attorney Dwayne McConnell said that the investigation, which began in mid-February, involved the interviewing of more than 30

people, including students.
The troopers first became aware of the alleged abuse after a parent called the Division of Family and Youth Services, McConnell said.
"It's my understanding that he's in Menlo Park, California, receiving some sort of counseling," McConnell said Monday.
McConnell said that his office does not plan to extradite Christiansen. "I understand he'll be back in the state in the near future," McConnell said.

Questions on spanking

Langford
4-11-85

Dear Editor:

Tuesday night's lengthy editorial on the subject of spanking inspires the following thoughts:

1. What is "spanking?" Spanking is only an euphemism for hitting.

2. When does spanking take place? Spanking only takes place when a big person (read "teacher" or "parent" as you like) decides for some reason that a little person (read "child") deserves to be hit.

3. What does spanking teach children? Spanking teaches children that it is all right for big people to hit little people under certain circumstances.

4. What benefit do children get out of spanking? This looks like a difficult question. By analogy, most animal trainers seem to be of a single mind that one does not successfully teach a dog or a horse anything by hitting them. Every dog obedience class that I've ever taken or ever heard of strongly emphasizes praise and reward as the most productive teaching technique for animals. Observation in the human world does not seem to support a contrary theory.

5. What harm results when a big person hits a little person? Aside from bruises, scars and broken bones, it would appear that hitting children

teaches children that hitting other people is acceptable social behavior. This in turn may translate into a pattern of violent conduct not only when the child reaches adulthood but also by children among themselves. How many times does a parent or a teacher instruct a child to keep his hands to himself or not to hit her little brother? How many amongst us as adults can remember, years later, the traumatic details of a rap on the knuckles with a ruler or a trip to the woodshed?

Proponents of spanking undoubtedly allege a right to discipline children and recite the aphorism "spare the rod and spoil the child." I, for one, concede no such "right" for big people to hit little people. I know many children who have never been hit and don't regard them as having been spoiled because of that omission. In fact, I don't believe the child has been born yet who deserves to be hit by an adult.

There is no doubt that children can be infuriating at times. The urge to violence certainly wells up in all of us from time to time. But I will thank kindly the school's administrators for refraining from hitting my children and urge that such abstentious conduct toward everyone would serve them very well.

Sincerely,
J.P. Tangen
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