

US: Notes on school prohibitions for Peter, 20-5-11

1. The citations I checked are those given at www.stophitting.com for states identified as prohibiting in schools. I also checked cross references to other laws within those provisions. I haven't checked other laws when there are no cross references, but I wouldn't be surprised if doing so revealed further legal defences (e.g. in criminal codes).

2. The following states are among those counted as prohibiting but have no explicit prohibition and laws really not good:

Maine allows “a reasonable degree of nondeadly force against any such person who creates a disturbance when and to the extent that the teacher reasonably believes it necessary to control the disturbing behaviour or to remove a person from the scene of such disturbance” but this justification does not apply to “the intentional, knowing or reckless use of nondeadly force that creates a substantial risk of extraordinary pain”

New Hampshire allows the use of “necessary force when the minor creates a disturbance, or refuses to leave the premises or when it is necessary for the maintenance of discipline” but this justification does not apply to “the malicious or reckless use of force that creates a risk of death, serious bodily injury, or substantial pain”

South Dakota allows “physical force that is reasonable and necessary for supervisory control over students”

3. The following states are among those counted as prohibiting and have explicit prohibition in law but also have provisions undermining the prohibition:

Delaware allows the use of “incidental, minor or reasonable physical contact designed to maintain order and control”

District of Columbia allows physical force “to maintain or regain order”

Hawaii allows justifiable force for the “maintenance of reasonable discipline”

Iowa allows reasonable physical contact in “encouraging, supporting, or disciplining the student”

Minnesota allows “reasonable force” for purposes of “correction”

Montana allows “reasonable and necessary” physical restraint to “maintain the orderly conduct of a pupil” even if it causes physical pain

North Dakota allows “the degree of force necessary for the preservation of order”

Oregon allows the use of “reasonable physical force ... to maintain order in the school”

Utah says schools can't use corporal punishment unless parent gives written permission; also provides a defence against prosecution for “reasonable discipline” except when it results in “serious bodily injury ... serious physical injury ... or the death of the minor”

Virginia states that the prohibition excludes the use of “minor or reasonable physical contact or other actions designed to maintain order and control”, even when these cause “physical pain, injury or discomfort”

Washington allows “reasonable force as necessary to maintain order” and “physical restraint [and] the use of aversive therapy as part of a behaviour management program”

Wisconsin allows “minor or reasonable physical contact designed to maintain order and control”

4. I'm attaching full texts of all the relevant laws for states listed at www.stophitting.com as prohibiting in schools.

Relevant laws in full

1 States without explicit prohibition

Connecticut (CT Penal Code Sec. 53a-18)

Sec. 53a-18. Use of reasonable physical force or deadly physical force generally. The use of physical force upon another person which would otherwise constitute an offense is justifiable and not criminal under any of the following circumstances:

- (1) A parent, guardian or other person entrusted with the care and supervision of a minor or an incompetent person, except a person entrusted with the care and supervision of a minor for school purposes as described in subdivision (6) of this section, may use reasonable physical force upon such minor or incompetent person when and to the extent that he reasonably believes such to be necessary to maintain discipline or to promote the welfare of such minor or incompetent person.
- (2) An authorized official of a correctional institution or facility may, in order to maintain order and discipline, use such physical force as is reasonable and authorized by the rules and regulations of the Department of Correction.

...

- (6) A teacher or other person entrusted with the care and supervision of a minor for school purposes may use reasonable physical force upon such minor when and to the extent he reasonably believes such to be necessary to (A) protect himself or others from immediate physical injury, (B) obtain possession of a dangerous instrument or controlled substance, as defined in subdivision (9) of section 21a-240, upon or within the control of such minor, (C) protect property from physical damage or (D) restrain such minor or remove such minor to another area, to maintain order.

Maine (ME Criminal Code Sec. 106)

§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 child is justified in using a reasonable degree of force against that child when and to the extent that the person reasonably believes it necessary to prevent or punish the child'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. For purposes of this subsection, "child" means a person who has not attained 18 years of age and has not been ordered emancipated by a court pursuant to Title 15, section 3506-A.

1-A. For purposes of subsection 1, "reasonable degree of force" is an objective standard. To constitute a reasonable degree of force, the physical force applied to the child may result in no more than transient discomfort or minor temporary marks on that child.

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 nondeadly force against any such person who creates a disturbance when and to the extent that the teacher or other entrusted person reasonably believes it necessary to control the disturbing behavior or to remove a person from the scene of such disturbance.

...

4. The justification extended in subsections 2 and 3 does not apply to the intentional, knowing or reckless use of nondeadly force that creates a substantial risk of extraordinary pain.

...

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.

New Hampshire (NH Rev. Statutes Ann. Sec. 627:6)

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) A teacher or person otherwise entrusted with the care or supervision of a minor for special purposes is justified on the premises in using necessary force against any such minor, when the minor creates a disturbance, or refuses to leave the premises or when it is necessary for the maintenance of discipline.

(b) In a child care program licensed or exempt from licensure under RSA 170-E, necessary force shall be limited to the minimum physical contact necessary to protect the child, other children present, the staff, or the general public from harm.

...

IV. The justification extended in paragraphs 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.

...

South Dakota (SD Codified Laws, Sec. 13-32-1 and 13-32-2)

13-32-1. Disciplinary authority over students on school premises. Superintendents, principals, supervisors, and teachers have disciplinary authority over all students while the students are in school or participating in or attending school sponsored activities whether on or off school premises. Superintendents and principals may also discipline students for aggressive or violent behavior that disrupts school or that affects a health or safety factor of the school or its programs.

13-32-2. Physical force authorized when reasonable and necessary--Attendance at school functions away from premises--Authority of bus drivers. Superintendents, principals, supervisors, and teachers and their aids and assistants, have the authority, to use the physical force that is reasonable and necessary for supervisory control over students. Like authority over students is given any person delegated to supervise children who have been authorized to attend a school function away from their school premises and to school bus drivers while students are riding, boarding, or leaving the buses.

2 States with explicit prohibition

Alaska (AK Statutes 4 AAC 07.010(c))

4 AAC 07.010. Establishment of district guidelines and procedures; prohibited discipline

(a) Each school district shall develop and adopt policies regarding student rights and responsibilities. These policies must address both substantive and procedural matters relating to

standards of student behavior, treatment, and discipline. A uniform discipline policy must be in effect throughout the district for the purpose of establishing standards and procedures in matters relating to student discipline. The procedures, at a minimum, must address the following:

- (1) routine discipline case procedure; and
- (2) chronic or serious discipline case procedure.

(b) All district policies must be consistent with the federal and state constitutions, state statutes and regulations as written or construed by courts of competent jurisdiction.

(c) The use of corporal punishment in Alaska public schools is prohibited.

California (CA Education Code Section 49000-49001)

EDUCATION CODE SECTION 49000-49001

49000. The Legislature finds and declares that the protection against corporal punishment, which extends to other citizens in other walks of life, should include children while they are under the control of the public schools. Children of school age are at the most vulnerable and impressionable period of their lives and it is wholly reasonable that the safeguards to the integrity and sanctity of their bodies should be, at this tender age, at least equal to that afforded to other citizens.

49001. (a) For the purposes of this section “corporal punishment” means the willful infliction of, or willfully causing the infliction of, physical pain on a pupil. An amount of force that is reasonable and necessary for a person employed by or engaged in a public school to quell a disturbance threatening physical injury to persons or damage to property, for purposes of self-defense, or to obtain possession of weapons or other dangerous objects within the control of the pupil, is not and shall not be construed to be corporal punishment within the meaning and intent of this section. Physical pain or discomfort caused by athletic competition or other such recreational activity, voluntarily engaged in by the pupil, is not and shall not be construed to be corporal punishment within the meaning and intent of this section.

(b) No person employed by or engaged in a public school shall inflict, or cause to be inflicted corporal punishment upon a pupil. Every resolution, bylaw, rule, ordinance, or other act or authority permitting or authorizing the infliction of corporal punishment upon a pupil attending a public school is void and unenforceable.

Delaware (DE Education Code Sec. 702)

§ 702. Corporal punishment

(a) “Corporal punishment” means the intentional infliction of physical pain which is used as a means of discipline. “Corporal punishment” includes, but is not limited to, paddling and slapping, when used as a means of discipline.

(b) No public school teacher, administrator, official employee or agent of the School Board may subject a student enrolled in the school district to corporal punishment.

(c) Subsection (b) of this section does not prohibit a public school teacher, administrator, official employee or agent of a school board from:

- (1) Using reasonable and necessary force to quell a disturbance or prevent an act that threatens physical injury to any person;
- (2) Using reasonable and necessary force to obtain possession of a weapon, or other dangerous object within a pupil's control;

- (3) Using reasonable and necessary force for the purpose of self-defense or the defense of others under §§ 464 and 465 of Title 11;
- (4) Using reasonable and necessary force for the protection of property under § 466 of Title 11;
- (5) Using reasonable and necessary force to prevent a pupil from inflicting harm on that pupil's own self;
- (6) Using reasonable and necessary force to protect the safety of others; or
- (7) Using incidental, minor or reasonable physical contact designed to maintain order and control.

(d) In determining whether or not a person was acting within the exceptions in subsection (c) of this section, deference shall be given to reasonable, good faith judgments made by the teacher, administrator, official employee or agent.

(e) Nothing in this section shall prohibit, permit or otherwise affect any action taken by the teacher, administrator, official employee or agent of the School Board with regard to a person who is not a pupil enrolled in the school district.

District of Columbia (Municipal Regulations, Rule 5-E2403)

2403 CORPORAL PUNISHMENT

2403.1 For purposes of this section, “corporal punishment” is defined as the use, or attempted use, of physical force upon, or against, a student, either intentionally or with reckless disregard for the student’s safety, as a punishment, or discipline.

2403.2 The use of corporal punishment in any form is strictly prohibited in and during all aspects of the public school environment or school activities. No student shall be subject to the infliction of corporal punishment by any teacher, other student administrator, or other school personnel.

2403.3 No teacher, administrator, student or other person shall subject a student to corporal punishment or condone the use of corporal punishment by any person under his or her supervision or control.

2403.4 Permission to administer corporal punishment shall not be sought or accepted from any parent, guardian, or school official.

2403.5 Conduct prohibited by this section include actual or attempted use or physical force against a student in accordance with § 2403.1, provided that the conduct is not prompted by reasonable efforts at self defense or the defense of others; is necessary to maintain or regain order; or is necessary for the safety of the educational environment. Examples of prohibited conduct include, but are not limited to, the following:

- (a) Shoving;
- (b) Striking;
- (c) Grabbing;
- (d) Shaking;
- (e) Hitting;
- (f) Throwing of objects; and
- (g) Unreasonable restraint.
- (h) Directing others to inflict any of the above on a student.

2403.6 The nature and the amount of physical contact reasonably necessary for self- defense, defense of others, protection of the educational environment, or to regain or maintain order shall be dependent upon the factual circumstances of each case. When reviewing those circumstances, the following shall be considered.

- (a) If the action was taken in self-defense or the defense of others, whether the action taken against the student was (1) proportionate to student's conduct, and (2) the least intrusive means of controlling the situation.
- (b) If the action was taken against a student for the protection of the educational environment or regain or to maintain order, whether the action taken against the student was (1) taken as a last resort after all other reasonable means had been exhausted, and (2) the least intrusive means of controlling the situation.

2403.7 All allegation of the use of corporal punishment shall be promptly investigated. Discipline shall be administered against any employee who violates this section. Students shall be permitted, but not required, to testify at any proceeding relating to the allegation of corporal punishment.

2403.8 Employees found to have violated this provision will be subject to discipline in accordance with § 1401 these Board Rules, 5 DCMR 1401, and the appropriate collective bargaining agreement, if applicable.

Hawaii (HI Rev. Statutes Sec. 302A-1141)

[§302A-1141] 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 oneself or any other person or property, and reasonable force may be used as defined in section 703-309(2) by a principal or the principal's 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 1996, c 89, pt of §2]

Note: 703-309(1) and 703-309(2) state:

§703-309 Use of force by persons with special responsibility for care, discipline, or safety of others. The use of force upon or toward the person of another is justifiable under the following circumstances:

- (1) The actor is the parent or guardian or other person similarly responsible for the general care and supervision of a minor, or a person acting at the request of the parent, guardian, or other responsible person, and:
 - (a) The force is employed with due regard for the age and size of the minor and is reasonably related to the purpose of safeguarding or promoting the welfare of the minor, including the prevention or punishment of the minor's misconduct; and
 - (b) The force used is not designed to cause or known to create a risk of causing substantial bodily injury, disfigurement, extreme pain or mental distress, or neurological damage.
- (2) The actor is a principal, the principal's agent, a teacher, or a person otherwise entrusted with the care or supervision for a special purpose of a minor, and:
 - (a) The actor believes that the force used is necessary to further that special purpose, including maintenance of reasonable discipline in a school, class, other group, or at activities supervised by the department of education held on or off school property and that the use of force is consistent with the welfare of the minor; and

(b) The degree of force, if it had been used by the parent or guardian of the minor, would not be unjustifiable under paragraph (1)(b).

Illinois (IL Compiled Statutes, School Code Sec. 5/24-24)

(105 ILCS 5/24-24) (from Ch. 122, par. 24-24)

Sec. 24-24. Maintenance of discipline. Subject to the limitations of all policies established or adopted under Section 14-8.05, teachers, other certificated educational employees, and any other person, whether or not a certificated employee, providing a related service for or with respect to a student shall maintain discipline in the schools, including school grounds which are owned or leased by the board and used for school purposes and activities. In all matters relating to the discipline in and conduct of the schools and the school children, they stand in the relation of parents and guardians to the pupils. This relationship shall extend to all activities connected with the school program, including all athletic and extracurricular programs, and may be exercised at any time for the safety and supervision of the pupils in the absence of their parents or guardians.

Nothing in this Section affects the power of the board to establish rules with respect to discipline; except that each board shall establish a policy on discipline, and the policy so established shall provide, subject to the limitations of all policies established or adopted under Section 14-8.05, that a teacher, other certificated employee, and any other person, whether or not a certificated employee, providing a related service for or with respect to a student may use reasonable force as needed to maintain safety for the other students, school personnel or persons or for the purpose of self defense or the defense of property, shall provide that a teacher may remove a student from the classroom for disruptive behavior, and shall include provisions which provide due process to students. The policy shall not include slapping, paddling or prolonged maintenance of students in physically painful positions nor shall it include the intentional infliction of bodily harm.

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Iowa (IA School Code Sec. 280.21)

280.21 CORPORAL PUNISHMENT -- BURDEN OF PROOF

1. An employee of an accredited public school district, accredited nonpublic school, or area education agency shall not inflict, or cause to be inflicted, corporal punishment upon a student. For purposes of this section, “*corporal punishment*” means the intentional physical punishment of a student. An employee’s physical contact with the body of a student shall not be considered corporal punishment if it is reasonable and necessary under the circumstances and is not designed or intended to cause pain or if the employee uses reasonable force, as defined under section 704.1, for the protection of the employee, the student, or other students; to obtain the possession of a weapon or other dangerous object within a student’s control; or for the protection of property. The department of education shall adopt rules to implement this section.

2. A school employee who, in the reasonable course of the employee’s employment responsibilities, comes into physical contact with a student shall be granted immunity from any civil or criminal liability which might otherwise be incurred or imposed as a result of such physical contact, if the physical contact is reasonable under the circumstances and involves the following:

- a. Encouraging, supporting, or disciplining the student.
- b. Protecting the employee, the student, or other students.
- c. Obtaining possession of a weapon or other dangerous object within a student's control.
- d. Protecting employee, student, or school property.

- e. Quelling a disturbance or preventing an act threatening physical harm to any person.
- f. Removing a disruptive student from class or any area of the school premises, or from school-sponsored activities off school premises.
- g. Preventing a student from the self-infliction of harm.
- h. Self-defense.
- i. Any other legitimate educational activity.

3. To prevail in a civil action alleging a violation of this section the party bringing the action shall prove the violation by clear and convincing evidence. Any school employee determined in a civil action to have been wrongfully accused under this section shall be awarded reasonable monetary damages, in light of the circumstances involved, against the party bringing the action.

NB 704.1 states:

704.1 REASONABLE FORCE.

“Reasonable force” is that force and no more which a reasonable person, in like circumstances, would judge to be necessary to prevent an injury or loss and can include deadly force if it is reasonable to believe that such force is necessary to avoid injury or risk to one's life or safety or the life or safety of another, or it is reasonable to believe that such force is necessary to resist a like force or threat. Reasonable force, including deadly force, may be used even if an alternative course of action is available if the alternative entails a risk to life or safety, or the life or safety of a third party, or requires one to abandon or retreat from one’s dwelling or place of business or employment.

Maryland (MD Code Education Sec. 7-306)

§ 7-306. Corporal punishment; State code of discipline.

(a) Corporal punishment prohibited.- Notwithstanding any bylaw, rule, or regulation made or approved by the State Board, a principal, vice principal, or other employee may not administer corporal punishment to discipline a student in a public school in the State.

(b) Standards of conduct; implementation.- The State Board of Education shall:

- (1) Establish guidelines that define a State code of discipline for all public schools with standards of conduct and consequences for violations of the standards; and
- (2) Assist each county board with the implementation of the guidelines.

(c) Regulations.-

(1) Subject to the provisions of subsections (a) and (b) of this section, each county board shall adopt regulations designed to create and maintain within the schools under its jurisdiction the atmosphere of order and discipline necessary for effective learning.

(2) The regulations adopted by a county board under this subsection:

- (i) Shall provide for educational and behavioral interventions, counseling, and student and parent conferencing; and
- (ii) Shall provide alternative programs, which may include in-school suspension, suspension, expulsion, or other disciplinary measures that are deemed appropriate.

Massachusetts (MA General Laws, Education Sec. 37G)

Section 37G. (a) The power of the school committee or of any teacher or any 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.

(b) The provisions of this section shall not preclude any member of the school committee or any teacher or any employee or agent of the school committee from using such reasonable force as is necessary to protect pupils, other persons, and themselves from an assault by a pupil. When such an assault has occurred, the principal shall file a detailed report of such with the school committee.

(c) The board of education shall promulgate regulations regarding the use of physical restraint for students. Such regulations shall not preclude any teacher or employee or agent of the school from using reasonable force to protect pupils, other persons and themselves from an assault by a pupil as set forth above in section (b). Such regulations shall require training of all personnel authorized to administer any forms of restraint. Such regulations shall provide for procedures for notification to the department and to the parents.

Michigan (MI Compiled Laws, Rev. School Code Sec. 380.1312)

380.1312 “Corporal punishment” defined; infliction of corporal punishment by employee, volunteer, or contractor; exercise of necessary reasonable physical force; liability; violation; deference given to reasonable good-faith judgments; development, implementation, and enforcement of code of student conduct; model list of alternatives to use of corporal punishment; authority permitting corporal punishment void.

Sec. 1312.

(1) As used in this section, “corporal punishment” means the deliberate infliction of physical pain by hitting, paddling, spanking, slapping, or any other physical force used as a means of discipline.

(2) Corporal punishment does not include physical pain caused by reasonable physical activities associated with athletic training.

(3) A person employed by or engaged as a volunteer or contractor by a local or intermediate school board or public school academy shall not inflict or cause to be inflicted corporal punishment upon any pupil under any circumstances.

(4) A person employed by or engaged as a volunteer or contractor by a local or intermediate school board or public school academy may use reasonable physical force upon a pupil as necessary to maintain order and control in a school or school-related setting for the purpose of providing an environment conducive to safety and learning. In maintaining that order and control, the person may use physical force upon a pupil as may be necessary for 1 or more of the following:

(a) To restrain or remove a pupil whose behavior is interfering with the orderly exercise and performance of school district or public school academy functions within a school or at a school-related activity, if that pupil has refused to comply with a request to refrain from further disruptive acts.

(b) For self-defense or the defense of another.

(c) To prevent a pupil from inflicting harm on himself or herself.

(d) To quell a disturbance that threatens physical injury to any person.

(e) To obtain possession of a weapon or other dangerous object upon or within the control of a pupil.

(f) To protect property.

(5) A person employed by or engaged as a volunteer or contractor by a local or intermediate school board or public school academy who exercises necessary reasonable physical force upon a pupil, or

upon another person of school age in a school-related setting, as described in subsection (4) is not liable in a civil action for damages arising from the use of that physical force and is presumed not to have violated subsection (3) by the use of that physical force. This subsection does not alter or limit a person's immunity from liability provided under 1964 PA 170, MCL 691.1401 to 691.1415.

(6) A person who willfully or through gross negligence violates subsection (3) or who willfully or through gross negligence violates subsection (4) may be appropriately disciplined by his or her school board or public school academy. This subsection does not limit a school board's or public school academy's authority to discipline an employee for a violation of its own policies.

(7) In determining whether an employee, volunteer, or contractor has acted in accordance with subsection (4), deference shall be given to reasonable good-faith judgments made by that person.

(8) A local or intermediate school district or a public school academy shall develop and implement a code of student conduct and shall enforce its provisions with regard to pupil misconduct in a classroom, elsewhere on school premises, on a school bus or other school-related vehicle, or at a school sponsored activity or event whether or not it is held on school premises.

(9) The department shall develop a model list of alternatives to the use of corporal punishment. This model list shall be developed in consultation with organizations that represent the interests of teachers, school employees, school boards, school administrators, pupils, parents, and child advocates, plus any other organization that the state board of education may wish to consult. The department shall send this model list to each school district, public school academy, and intermediate school district in the state and to each nonpublic school in the state that requests it. A local or intermediate school board or public school academy shall approve and cause to be distributed to each employee, volunteer, and contractor a list of alternatives to the use of corporal punishment. Upon request, the department of education shall provide assistance to schools in the development of programs and materials to implement this section.

(10) Any resolution, bylaw, rule, policy, ordinance, or other authority permitting corporal punishment is void.

Minnesota (MN Statutes Sec. 121A.58)

121A.58 CORPORAL PUNISHMENT.

Subdivision 1. Definition.

For the purpose of this section, "corporal punishment" means conduct involving:

- (1) hitting or spanking a person with or without an object; or
- (2) unreasonable physical force that causes bodily harm or substantial emotional harm.

Subd. 2. Corporal punishment not allowed.

An employee or agent of a district shall not inflict corporal punishment or cause corporal punishment to be inflicted upon a pupil to reform unacceptable conduct or as a penalty for unacceptable conduct.

Subd. 3. Violation.

Conduct that violates subdivision 2 is not a crime under section [645.241](#), but may be a crime under chapter 609 if the conduct violates a provision of chapter 609.

Note

1) 645.241 states:

645.241 PUNISHMENT FOR PROHIBITED ACTS.

When the performance of any act is prohibited by a statute, and no penalty for the violation of the same shall be imposed in any statute, the doing of such act shall be a misdemeanor.

2) 609 is the Criminal Code

3) 609.06 states:

609.06 AUTHORIZED USE OF FORCE.

Subdivision 1. When authorized.

Except as otherwise provided in subdivision 2, reasonable force may be used upon or toward the person of another without the other's consent when the following circumstances exist or the actor reasonably believes them to exist:

...

(6) when used by a parent, guardian, teacher, or other lawful custodian of a child or pupil, in the exercise of lawful authority, to restrain or correct such child or pupil; or

(7) when used by a school employee or school bus driver, in the exercise of lawful authority, to restrain a child or pupil, or to prevent bodily harm or death to another; or

...

Montana (MT Code Annotated Sec. 20-4-302)

20-4-302. Discipline and punishment of pupils -- definition of corporal punishment -- penalty - defense. (1) A teacher or principal has the authority to hold a pupil to a strict accountability for disorderly conduct in school, on the way to or from school, or during intermission or recess.

(2) For the purposes of this section, "corporal punishment" means knowingly and purposely inflicting physical pain on a pupil as a disciplinary measure.

(3) A person who is employed or engaged by a school district may not inflict or cause to be inflicted corporal punishment on a pupil.

(4) (a) A person who is employed or engaged by a school district may use physical restraint, defined as the placing of hands on a pupil in a manner that is reasonable and necessary to:

(i) quell a disturbance;

(ii) provide self-protection;

(iii) protect the pupil or others from physical injury;

(iv) obtain possession of a weapon or other dangerous object on the person of the pupil or within control of the pupil;

(v) maintain the orderly conduct of a pupil including but not limited to relocating a pupil in a waiting line, classroom, lunchroom, principal's office, or other on-campus facility; or

(vi) protect property from serious harm.

(b) Physical pain resulting from the use of physical restraint as defined in subsection (4)(a) does not constitute corporal punishment as long as the restraint is reasonable and necessary.

(5) A teacher in a district employing neither a district superintendent nor a principal at the school where the teacher is assigned has the authority to suspend a pupil for good cause. When either a district superintendent or a school principal is employed, only the superintendent or principal has the authority to suspend a pupil for good cause. Whenever a teacher suspends a pupil, the teacher shall notify the trustees and the county superintendent immediately of the action.

(6) A teacher has the duty to report the truancy or incorrigibility of a pupil to the district

superintendent, the principal, the trustees, or the county superintendent, whichever is applicable.

(7) If a person who is employed or engaged by a school district uses corporal punishment or more physical restraint than is reasonable or necessary, the person is guilty of a misdemeanor and, upon conviction of the misdemeanor by a court of competent jurisdiction, shall be fined not less than \$25 or more than \$500.

(8) A person named as a defendant in an action brought under this section may assert as an affirmative defense that the use of physical restraint was reasonable or necessary. If that defense is denied by the person bringing the charge, the issue of whether the restraint used was reasonable or necessary must be determined by the trier of fact.

Nebraska (NE Rev. Statutes Sec. 79-295)

Section 79-295

Corporal punishment; prohibited.

Corporal punishment shall be prohibited in public schools.

Annotations:

Corporal punishment, as prohibited in this section, is reasonably understood to be the infliction of bodily pain as a penalty for disapproved behavior. The use of corporal punishment by a teacher, in violation of this section, may subject the teacher to discipline for unprofessional conduct under section 79-824. *Daily v. Board of Ed. of Morrill Cty. School Dist. No. 62-0063*, 256 Neb. 73, 588 N.W.2d 813 (1999).

Nevada (NV Rev. Statutes Sec 392.4633)

NRS 392.4633 Corporal punishment prohibited; report of violation; forwarding of complaint if determined to be substantiated.

1. Corporal punishment must not be administered upon a pupil in any public school.

2. Subsection 1 does not prohibit any teacher, principal or other licensed person from defending himself or herself if attacked by a pupil.

3. A person may report the use of corporal punishment on a pupil to the agency which provides child welfare services in the county in which the school district is located. If the agency determines that the complaint is substantiated, the agency shall forward the complaint to the Department, the appropriate local law enforcement agency within the county and the district attorney's office within the county for further investigation.

4. As used in this section:

(a) "Agency which provides child welfare services" has the meaning ascribed to it in [NRS 432B.030](#).

(b) "Corporal punishment" means the intentional infliction of physical pain upon or the physical restraint of a pupil for disciplinary purposes. The term does not include the use of reasonable and necessary force:

(1) To quell a disturbance that threatens physical injury to any person or the destruction of property;

(2) To obtain possession of a weapon or other dangerous object within a pupil's control;

(3) For the purpose of self-defense or the defense of another person; or

(4) To escort a disruptive pupil who refuses to go voluntarily with the proper authorities.

(Added to NRS by 1960, 60; A 1979, 1616; 1987, 1013; 1993, 2622; [2009, 921](#))

New Jersey (NJ Permanent Statutes, Education 18A:6-1)

18A:6-1. Corporal punishment of pupils

No person employed or engaged in a school or educational institution, 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 reasonable 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 constitute corporal punishment within the meaning and intentment of 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.

New Mexico

Bill as passed:

SECTION 1. Section 22-5-4.3 NMSA 1978 (being Laws 1986, Chapter 33, Section 9, as amended) is amended to read:

“22-5-4.3. SCHOOL DISCIPLINE POLICIES--STUDENTS MAY SELF-ADMINISTER CERTAIN MEDICATIONS.--

A. Local school boards shall establish student discipline policies and shall file them with the department. The local school board shall involve parents, school personnel and students in the development of these policies, and public hearings shall be held during the formulation of these policies in the high school attendance areas within each school district or on a district-wide basis for those school districts that have no high school.

B. Each school district discipline policy shall establish rules of conduct governing areas of student and school activity, detail specific prohibited acts and activities and enumerate possible disciplinary sanctions, which sanctions may include in-school suspension, school service, suspension or expulsion. Corporal punishment shall be prohibited by each local school board and each governing body of a charter school.

...

New York (NY Regulations of the Board of Regents, 8 NYCRR 19.5)

* Section 19.5.* Prohibition of corporal punishment and aversive interventions.

(a) Prohibition of corporal punishment.

(1) No teacher, administrator, officer, employee or agent of a school district in this State, a board of cooperative educational services (BOCES), a charter school, State-operated or State-supported school, an approved preschool program, an approved private school, an approved out-of-state day or residential school, or a registered nonpublic nursery, kindergarten, elementary or secondary school in this State, shall use corporal punishment against a pupil.

(2) As used in this section, corporal punishment means any act of physical force upon a pupil for the purpose of punishing that pupil, except as otherwise provided in paragraph (3) of this subdivision.

(3) In situations in which alternative procedures and methods not involving the use of physical force cannot reasonably be employed, nothing contained in this section shall be construed to prohibit the use of reasonable physical force for the following purposes:

- (i) to protect oneself from physical injury;
- (ii) to protect another pupil or teacher or any person from physical injury;
- (iii) to protect the property of the school, school district or others; or
- (iv) to restrain or remove a pupil whose behavior is interfering with the orderly exercise and performance of school or school district functions, powers and duties, if that pupil has refused to comply with a request to refrain from further disruptive acts.

(b) Prohibition of the use of aversive interventions.

(1) No public school, BOCES, charter school, approved preschool program, approved private school, State-operated or State-supported school in this State, approved out-of-state day or residential school, or registered nonpublic nursery, kindergarten, elementary or secondary school in this State shall employ the use of aversive behavioral interventions to reduce or eliminate maladaptive behaviors, except as provided pursuant to section 200.22(e) and (f) of this Title.

(2) As used in this section, aversive intervention means: an intervention that is intended to induce pain or discomfort to a student for the purpose of eliminating or reducing maladaptive behaviors, including such interventions as:

- (i) contingent application of noxious, painful, intrusive stimuli or activities; strangling, shoving, deep muscle squeezes or other similar stimuli;
- (ii) any form of noxious, painful or intrusive spray, inhalant or tastes;
- (iii) contingent food programs that include the denial or delay of the provision of meals or intentionally altering staple food or drink in order to make it distasteful;
- (iv) movement limitation used as a punishment, including but not limited to helmets and mechanical restraint devices; or
- (v) other stimuli or actions similar to the interventions described in subparagraphs (i) through (iv) of this paragraph.

The term does not include such interventions as voice control, limited to loud, firm commands; time-limited ignoring of a specific behavior; token fines as part of a token economy system; brief physical prompts to interrupt or prevent a specific behavior; interventions medically necessary for the treatment or protection of the student; or other similar interventions.

North Dakota (ND Century Code, Elem. And Sec. Education Sec. 15.1-19-02)

15.1-19-02. Corporal punishment - Prohibition - Consistent policies.

1. A school district employee may not inflict, cause to be inflicted, or threaten to inflict corporal punishment on a student.

2. This section does not prohibit a school district employee from using the degree of force necessary:

- a. To quell a physical disturbance that threatens physical injury to an individual or damage to property;
- b. To quell a verbal disturbance;
- c. For self-defense;
- d. For the preservation of order; or
- e. To obtain possession of a weapon or other dangerous object within the control of a student.

3. For purposes of this section, corporal punishment means the willful infliction of physical pain on a student; willfully causing the infliction of physical pain on a student; or willfully allowing the infliction of physical pain on a student. Physical pain or discomfort caused by athletic competition or other recreational activities voluntarily engaged in by a student is not corporal punishment. A school board may not expand through policy the definition of corporal punishment beyond that provided by this subsection.

4. a. The board of each school district shall develop policies setting forth standards for student behavior, procedures to be followed if the standards are not met, and guidelines detailing how all incidents are to be investigated.

b. The board shall ensure that the policies, procedures, and guidelines applicable to all elementary schools in the district are identical, that the policies, procedures, and guidelines applicable to all middle schools in the district are identical, and that the policies, procedures, and guidelines applicable to all high schools in the district are identical.

Ohio (OH Rev. Code Sec. 3319.41)

3319.41 Corporal punishment policy.

(A) No person employed or engaged as a teacher, principal, administrator, nonlicensed school employee, or bus driver in a public school may inflict or cause to be inflicted corporal punishment as a means of discipline upon a pupil attending such school .

(B) A person employed or otherwise engaged as a teacher, principal, or administrator by a nonpublic school, except as otherwise provided by the governing authority of the nonpublic school, may inflict or cause to be inflicted reasonable corporal punishment upon a pupil attending the school to which the person is assigned whenever such punishment is reasonably necessary in order to preserve discipline while the student is subject to school authority.

(C) Persons employed or engaged as teachers, principals, or administrators in a school, whether public or private, and nonlicensed school employees and school bus drivers may, within the scope of their employment, use and apply such amount of force and restraint as is reasonable and necessary to quell a disturbance threatening physical injury to others, to obtain possession of weapons or other dangerous objects upon the person or within the control of the pupil, for the purpose of self-defense, or for the protection of persons or property.

Oregon (OR Rev. Statutes Sec. 339-250)

339.250 Duty of student to comply with rules; discipline, suspension, expulsion, removal and counseling; written information on alternative programs required. (1) Public school students shall comply with rules for the government of such schools, pursue the prescribed course of study, use the prescribed textbooks and submit to the teachers' authority.

(2) Pursuant to the written policies of a district school board, an individual who is a teacher, administrator, school employee or school volunteer may use reasonable physical force upon a

student when and to the extent the individual reasonably believes it necessary to maintain order in the school or classroom or at a school activity or event, whether or not it is held on school property. The district school board shall adopt written policies to implement this subsection and shall inform such individuals of the existence and content of these policies.

(3) The district school board may authorize the discipline, suspension or expulsion of any refractory student and may suspend or expel any student who assaults or menaces a school employee or another student. The age of a student and the past pattern of behavior of a student shall be considered prior to a suspension or expulsion of a student. As used in this subsection “menace” means by word or conduct the student intentionally attempts to place a school employee or another student in fear of imminent serious physical injury.

(4)(a) Willful disobedience, willful damage or injury to school property, use of threats, intimidation, harassment or coercion against any fellow student or school employee, open defiance of a teacher’s authority or use or display of profane or obscene language is sufficient cause for discipline, suspension or expulsion from school.

(b) District school boards shall develop policies on managing students who threaten violence or harm in public schools. The policies adopted by a school district shall include staff reporting methods and shall require an administrator to consider:

(A) Immediately removing from the classroom setting any student who has threatened to injure another person or to severely damage school property.

(B) Placing the student in a setting where the behavior will receive immediate attention, including, but not limited to, the office of the school principal, vice principal, assistant principal or counselor or a school psychologist licensed by the Teacher Standards and Practices Commission or the office of any licensed mental health professional.

(C) Requiring the student to be evaluated by a licensed mental health professional before allowing the student to return to the classroom setting.

(c) The administrator shall notify the parent or legal guardian of the student’s behavior and the school’s response.

(d) District school boards may enter into contracts with licensed mental health professionals to perform the evaluations required under paragraph (b) of this subsection.

(e) District school boards shall allocate any funds necessary for school districts to implement the policies adopted under paragraph (b) of this subsection.

...

(12)(a) The authority to discipline a student does not authorize the infliction of corporal punishment. Every resolution, bylaw, rule, ordinance or other act of a district school board, a public charter school or the Department of Education that permits or authorizes the infliction of corporal punishment upon a student is void and unenforceable.

(b) As used in this subsection, “corporal punishment” means the willful infliction of, or willfully causing the infliction of, physical pain on a student.

(c) As used in this subsection, “corporal punishment” does not mean:

(A) The use of physical force authorized by ORS 161.205 for the reasons specified therein; or

(B) Physical pain or discomfort resulting from or caused by participation in athletic competition or other such recreational activity, voluntarily engaged in by a student.

Note

161.205 states:

161.205 Use of physical force generally. The use of physical force upon another person that would otherwise constitute an offense is justifiable and not criminal under any of the following circumstances:

(1) A parent, guardian or other person entrusted with the care and supervision of a minor or an incompetent person may use reasonable physical force upon such minor or incompetent person when and to the extent the person reasonably believes it necessary to maintain discipline or to promote the welfare of the minor or incompetent person. A teacher may use reasonable physical force upon a student when and to the extent the teacher reasonably believes it necessary to maintain order in the school or classroom or at a school activity or event, whether or not it is held on school property.

...

Pennsylvania (22 PA Code Sec. 12.5)

§ 12.5. Corporal punishment.

(a) Corporal punishment is defined as physically punishing a student for an infraction of the discipline policy. Use of corporal punishment is prohibited.

(b) Teachers and school authorities may use reasonable force under the following circumstances:

- (1) To quell a disturbance.
- (2) To obtain possession of weapons or other dangerous objects.
- (3) For the purpose of self-defense.
- (4) For the protection of persons or property.

Rhode Island (RI Board of Regents Physical Restraint Regulations Sec. 3.6)

3.6 Corporal Punishment- is defined as the infliction of bodily pain as a penalty for disapproved behavior.

Corporal punishment as defined shall not be used in public education programs.

Utah (UT Administrative Rule R277-608)

R277. Education, Administration.

R277-608. Prohibition of Corporal Punishment in Utah's Public Schools.

R277-608-1. Definitions.

- A. This rule uses the definitions of 53A-11-801.
- B. "Board" means the Utah State Board of Education.
- C. "USOE" means the Utah State Office of Education.

R277-608-2. Authority and Purpose.

- A. This rule is authorized by Utah Constitution Article X, Section 3 which vests the general control and supervision of public education in the Board, Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities and Section 53A-11-801 through 805 which provides guidelines for the use of reasonable and necessary physical restraint or force in educational settings.
- B. The purpose of this rule is to prohibit the use of corporal punishment in the public schools of Utah.

R277-608-3. Reporting Requirements.

A. Each school district shall incorporate in the district plan submitted to the USOE annually, the prohibition of corporal punishment.

B. A district policy shall incorporate a prohibition of corporal punishment, appropriate sanctions and appeal procedures for district employees disciplined under this rule and the corresponding state statute.

R277-608-4. Special Education Exception(s) to this Rule.

Districts shall have in place, as part of their district special education plans, procedures or manuals, criteria and procedures for using appropriate behavior reduction intervention in accordance with state and federal law.

Note

53A-11-801 to 805 states:

53A-11-801. Definitions.

As used in this part:

(1) "Child" or "minor child" means a person:

(a) under the age of 18; or

(b) under the age of 23 who is receiving educational services as an individual with a disability.

(2) "Corporal punishment" means the intentional infliction of physical pain upon the body of a minor child as a disciplinary measure.

(3) "School" means any public or private elementary or secondary school, pre-school, care center, nursery school, or business which receives compensation for supervising or educating a child.

53A-11-802. Prohibition of corporal punishment -- Use of reasonable and necessary physical restraint or force.

(1) A school employee may not inflict or cause the infliction of corporal punishment upon a child who is receiving services from the school, unless written permission has been given by the student's parent or guardian to do so.

(2) This section does not prohibit the use of reasonable and necessary physical restraint or force in self defense or otherwise appropriate to the circumstances to:

(a) obtain possession of a weapon or other dangerous object in the possession or under the control of a child;

(b) protect the child or another person from physical injury;

(c) remove from a situation a child who is violent or disruptive; or

(d) protect property from being damaged.

(3) (a) Any rule, ordinance, policy, practice, or directive which purports to direct or permit the commission of an act prohibited by this part is void and unenforceable.

(b) An employee may not be subjected to any sanction for failure or refusal to commit an act prohibited under this part.

(4) A parochial or private school may exempt itself from the provisions of this section by adopting a policy to that effect and notifying the parents or guardians of children in the school of the exemption.

53A-11-803. Investigation of complaint -- Confidentiality -- Immunity.

(1) (a) The reporting and investigation requirements of Title 62A, Chapter 4a, Part 4, Child Abuse or Neglect Reporting Requirements, apply to complaints on corporal punishment.

(b) If a violation is confirmed, school authorities shall take prompt and appropriate action, including in-service training and other administrative action, to ensure against a repetition of the violation.

(2) Reports made on violations of this part are subject to the same requirements of confidentiality as provided under Section **62A-4a-412**.

(3) Any school or individual who in good faith makes a report or cooperates in an investigation by a school or authorized public agency concerning a violation of this part is immune from any civil or criminal liability that might otherwise result by reason of those actions.

53A-11-804. Liability.

(1) (a) Corporal punishment which would, but for this part, be considered to be reasonable discipline of a minor under Section **76-2-401** may not be used as a basis for any civil or criminal action.

(b) A court of competent jurisdiction may take appropriate action against any employing entity if the court finds that the employing entity has not taken reasonable steps to enforce the provisions of this part.

(2) Civil or criminal action may proceed without hindrance in the case of corporal punishment which would not be reasonable discipline under Sections **76-2-401** and **53A-11-805**.

53A-11-805. Exception.

Behavior reduction intervention which is in compliance with Section **76-2-401** and with state and local rules adopted under Section **53A-15-301** is excepted from this part.

76-2-401 states:

76-2-401. Justification as defense -- When allowed.

(1) Conduct which is justified is a defense to prosecution for any offense based on the conduct. The defense of justification may be claimed:

(a) when the actor's conduct is in defense of persons or property under the circumstances described in Sections **76-2-402** through **76-2-406** of this part;

(b) when the actor's conduct is reasonable and in fulfillment of his duties as a governmental officer or employee;

(c) when the actor's conduct is reasonable discipline of minors by parents, guardians, teachers, or other persons in loco parentis, as limited by Subsection (2);

(d) when the actor's conduct is reasonable discipline of persons in custody under the laws of the state; or

(e) when the actor's conduct is justified for any other reason under the laws of this state.

(2) The defense of justification under Subsection (1)(c) is not available if the offense charged involves causing serious bodily injury, as defined in Section **76-1-601**, serious physical injury, as defined in Section **76-5-109**, or the death of the minor.

53A-15-301 concerns education for disabled children

Virginia (VA Code, Education Sec. 22.1-279.1)

§ 22.1-279.1. Corporal punishment prohibited.

A. No teacher, principal or other person employed by a school board or employed in a school operated by the Commonwealth shall subject a student to corporal punishment. This prohibition of corporal punishment shall not be deemed to prevent (i) the use of incidental, minor or reasonable physical contact or other actions designed to maintain order and control; (ii) the use of reasonable and necessary force to quell a disturbance or remove a student from the scene of a disturbance which threatens physical injury to persons or damage to property; (iii) the use of reasonable and necessary force to prevent a student from inflicting physical harm on himself; (iv) the use of reasonable and necessary force for self-defense or the defense of others; or (v) the use of reasonable and necessary force to obtain possession of weapons or other dangerous objects or controlled substances or paraphernalia which are upon the person of the student or within his control.

B. In determining whether a person was acting within the exceptions provided in this section, due deference shall be given to reasonable judgments at the time of the event which were made by a teacher, principal or other person employed by a school board or employed in a school operated by the Commonwealth.

C. For the purposes of this section, “corporal punishment” means the infliction of, or causing the infliction of, physical pain on a student as a means of discipline.

This definition shall not include physical pain, injury or discomfort caused by the use of incidental, minor or reasonable physical contact or other actions designed to maintain order and control as permitted in subdivision (i) of subsection A of this section or the use of reasonable and necessary force as permitted by subdivisions (ii), (iii), (iv), and (v) of subsection A of this section, or by participation in practice or competition in an interscholastic sport, or participation in physical education or an extracurricular activity.

Washington (WA Administrative Code 392-400-235)

Discipline – Conditions and limitations

Discipline may be imposed upon any student for violation of the rules of the school district that have been established pursuant to WAC [180-400-225](#), subject to the following limitations and conditions and the grievance procedure set forth in WAC [392-400-240](#):

(1) No form of discipline shall be enforced in such a manner as to prevent a student from accomplishing specific academic grade, subject, or graduation requirements.

(2) A student's academic grade or credit in a particular subject or course may be adversely affected by reason of tardiness or absences only to the extent and upon the basis that:

(a) The student’s attendance and/or participation is related to the instructional objectives or goals of the particular subject or course, and

(b) The student’s attendance and/or participation has been identified by the teacher pursuant to policy of the school district as a basis for grading, in whole or in part, in the particular subject or course.

(3) Corporal punishment which is defined as any act which willfully inflicts or willfully causes the infliction of physical pain on a student is prohibited.

Corporal punishment does not include:

- (a) The use of reasonable physical force by a school administrator, teacher, school employee or volunteer as necessary to maintain order or to prevent a student from harming him/herself, other students and school staff or property;
- (b) Physical pain or discomfort resulting from or caused by training for or participation in athletic competition or recreational activity voluntarily engaged in by a student;
- (c) Physical exertion shared by all students in a teacher directed class activity, which may include, but is not limited to, physical education exercises, field trips or vocational education projects; or
- (d) Physical restraint or the use of aversive therapy as part of a behavior management program in a student's individual education program which has been signed by the parent and is carried out according to district procedures in compliance with WAC 392-171-800, et seq.

Note

392-400-225 (= 180-44-225 recodified) states:

School district rules defining misconduct – Distribution of rules

(1) It shall be the responsibility and duty of each school district to adopt, publish, and make available to all students and parents written rules which state with reasonable clarity the types of misconduct for which discipline, suspension, and expulsion may be imposed. In addition, written procedures for administering corrective action shall be developed and reviewed periodically as follows:

- (a) Each school district shall provide for the development with parent and community participation of written procedures for administering corrective action at each school as required by RCW [28A.600.020\(3\)](#).
- (b) In a manner consistent with the district procedures developed pursuant to (a) above, the principal and certificated employees in each school building shall confer at least annually for the purpose of developing, or reviewing, or both, building discipline standards and the uniform enforcement of those standards, as required by RCW [28A.400.110](#).

(2) Rules that establish types of misconduct pursuant to this section must have a real and substantial relationship to the lawful maintenance and operation of the school district including, but not limited to, the preservation of the health and safety of students and employees and the preservation of an educational process which is conducive to learning.

(3) The rules set forth in this chapter, the rules of a school district that establish types of misconduct pursuant to subsection (1) above, and the written procedures of a district for administering corrective action adopted pursuant to subsection (1)(a) above, shall be published and made available to all students and parents on an annual basis. If a school district chooses not to distribute such rules to all students and parents, then notice which describes the contents of such rules and specifies the person(s) to contact for a copy thereof shall be provided to students and parents on an annual basis in a manner reasonably calculated to come to their attention.

392-400-240 states:

Discipline – Grievance procedure

Any student, parent, or guardian who is aggrieved by the imposition of discipline shall have the right to an informal conference with the building principal or his or her designee for the purpose of resolving the grievance. The employee whose action is being grieved shall be notified of the initiation of a grievance as soon as reasonably possible. During such conference the student, parent, or guardian shall be subject to questioning by the building principal or his or her designee and shall be entitled to question school personnel involved in the matter being grieved. Subsequent to the building level grievance meeting, the student, parent, or guardian, upon two school business days' prior notice, shall have the right to present a written and/or oral grievance to the superintendent of the district or his/her designee. If the grievance is not resolved, the student, parent, or guardian, upon two school business days' prior notice, shall have the right to present a written and/or oral grievance to the board of directors during the board's next regular meeting or to the school district disciplinary appeal council if the board has delegated its responsibility to hear and decide such grievances to the council pursuant to WAC [392-400-317](#). The board or council shall notify the student, parent, or guardian of its response to the grievance within ten school business days after the date of the meeting. The discipline action shall continue notwithstanding the implementation of the grievance procedure set forth in this section unless the principal or his or her designee elects to postpone such action.

West Virginia (WV Code Sec. 18A-5-1(e))

§18A-5-1. Authority of teachers and other school personnel; exclusion of students having infectious diseases; suspension or expulsion of disorderly students; corporal punishment abolished.

- (a) The teacher shall stand in the place of the parent(s), guardian(s) or custodian(s) in exercising authority over the school and has control of all students enrolled in the school from the time they reach the school until they have returned to their respective homes, except that where transportation of students is provided, the driver in charge of the school bus or other mode of transportation shall exercise such authority and control over the students while they are in transit to and from the school.
- (b) Subject to the rules of the State Board of Education, the teacher shall exclude from the school any student known to have or suspected of having any infectious disease, or any student who has been exposed to any infectious disease, and shall immediately notify the proper health officer or medical inspector of the exclusion. Any student so excluded may not be readmitted to the school until he or she has complied with all the requirements of the rules governing those cases or has presented a certificate of health signed by the medical inspector or other proper health officer.
- (c) The teacher may exclude from his or her classroom or school bus any student who is guilty of disorderly conduct; who in any manner interferes with an orderly educational process; who threatens, abuses or otherwise intimidates or attempts to intimidate a school employee or a student; who willfully disobeys a school employee; or who uses abusive or profane language directed at a school employee. Any student excluded shall be placed under the control of the principal of the school or a designee. The excluded student may be admitted to the classroom or school bus only when the principal, or a designee, provides written certification to the teacher that the student may be readmitted and specifies the specific type of disciplinary action, if any, that was taken. If the principal finds that disciplinary action is warranted, he or she shall provide written and, if possible, telephonic notice of the action to the parent(s), guardian(s) or custodian(s). When a student is excluded from a classroom or a school bus two times in one semester, and after exhausting all reasonable methods of classroom discipline provided in the school discipline plan, the student may be readmitted to the classroom or the school bus only after the principal, teacher and, if possible, the parent(s), guardian(s) or custodian(s) of the student have held a conference to discuss the student's

disruptive behavior patterns, and the teacher and the principal agree on a course of discipline for the student and inform the parent(s), guardian(s) or custodian(s) of the course of action. Thereafter, if the student's disruptive behavior persists, upon the teacher's request, the principal may, to the extent feasible, transfer the student to another setting. The Legislature finds that isolating students or placing them in alternative learning centers may be the best setting for chronically disruptive students. The county board shall create more alternative learning centers or expand its capacity for alternative placements, subject to funding, to correct these students' behaviors so they can return to a regular classroom without engaging in further disruptive behavior.

(d) The Legislature finds that suspension from school is not appropriate solely for a student's failure to attend class. Therefore, a student may not be suspended from school solely for not attending class. Other methods of discipline may be used for the student which may include, but are not limited to, detention, extra class time or alternative class settings.

(e) Corporal punishment of any student by a school employee is prohibited.

(f) Each county board is solely responsible for the administration of proper discipline in the public schools of the county and shall adopt policies consistent with the provisions of this section to govern disciplinary actions. These policies shall encourage the use of alternatives to corporal punishment, providing for the training of school personnel in alternatives to corporal punishment and for the involvement of parent(s), guardian(s) or custodian(s) in the maintenance of school discipline. The county boards shall provide for the immediate incorporation and implementation in the schools of a preventive discipline program which may include the responsible student program and a student involvement program which may include the peer mediation program, devised by the West Virginia Board of Education. Each county board may modify those programs to meet the particular needs of the county. The county boards shall provide in-service training for teachers and principals relating to assertive discipline procedures and conflict resolution. The county boards also may establish cooperatives with private entities to provide middle educational programs which may include programs focusing on developing individual coping skills, conflict resolution, anger control, self-esteem issues, stress management and decision making for students and any other program related to preventive discipline.

(g) For the purpose of this section:

(1) "Student" includes any child, youth or adult who is enrolled in any instructional program or activity conducted under board authorization and within the facilities of or in connection with any program under public school direction: *Provided*, That, in the case of adults, the student-teacher relationship shall terminate when the student leaves the school or other place of instruction or activity;

(2) "Teacher" means all professional educators as defined in section one, article one of this chapter and includes the driver of a school bus or other mode of transportation; and

(3) "Principal" means the principal, assistant principal, vice principal or the administrative head of the school or a professional personnel designee of the principal or the administrative head of the school.

(h) Teachers shall exercise other authority and perform other duties prescribed for them by law or by the rules of the state board not inconsistent with the provisions of this chapter and chapter eighteen of this code.

Wisconsin (WI Statute Sec. 118.31)

118.31 Corporal punishment. (1) In this section, "corporal punishment" means the intentional infliction of physical pain which is used as a means of discipline. "Corporal punishment" includes, but is not limited to, paddling, slapping or prolonged maintenance of physically painful positions,

when used as a means of discipline. “Corporal punishment” does not include actions consistent with an individualized education program developed under s. 115.787 or reasonable physical activities associated with athletic training.

(2) Except as provided in sub. (3), no official, employee or agent of a school board may subject a pupil enrolled in the school district to corporal punishment.

(3) Subsection (2) does not prohibit an official, employee or agent of a school board from:

(a) Using reasonable and necessary force to quell a disturbance or prevent an act that threatens physical injury to any person.

(b) Using reasonable and necessary force to obtain possession of a weapon or other dangerous object within a pupil’s control.

(c) Using reasonable and necessary force for the purpose of self–defense or the defense of others under s. 939.48.

(d) Using reasonable and necessary force for the protection of property under s. 939.49.

(e) Using reasonable and necessary force to remove a disruptive pupil from a school premises or motor vehicle, as defined in s. 125.09 (2) (a) 1. and 4., or from school–sponsored activities.

(f) Using reasonable and necessary force to prevent a pupil from inflicting harm on himself or herself.

(g) Using reasonable and necessary force to protect the safety of others.

(h) Using incidental, minor or reasonable physical contact designed to maintain order and control.

(4) Each school board shall adopt a policy that allows any official, employee or agent of the school board to use reasonable and necessary force for the purposes of sub. (3) (a) to (h). In determining whether or not a person was acting within the exceptions in sub. (3), deference shall be given to reasonable, good faith judgments made by an official, employee or agent of a school board.

(5) Except as provided in s. 939.61 (1), this section does not create a separate basis for civil liability of a school board or their officials, employees or agents for damages arising out of claims involving allegations of improper or unnecessary use of force by school employees against students.

(6) Nothing in this section shall prohibit, permit or otherwise affect any action taken by an official, employee or agent of a school board with regard to a person who is not a pupil enrolled in the school district.

(7) Nothing in this section abrogates or restricts any statutory or common law defense to prosecution for any crime.

Note

115.787 concerns individualised education programmes for disabled children

939.61(1) provides for fines as punishment when penalties not specified