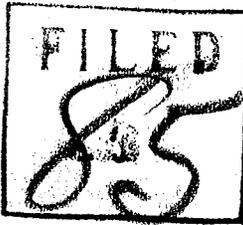


SCHOOLS:  
TEACHERS:  
CORPORAL PUNISHMENT:

A teacher has the right to inflict corporal punishment upon a pupil if such punishment is necessary to maintain order and discipline in the school; such punishment must be reasonable and proper under all of the conditions and circumstances existing; it must not be excessive, cruel, unusual, or malicious.



June 14, 1955

Honorable John S. Stevens  
First Assistant  
Prosecuting Attorney  
St. Louis County Court House  
Clayton S, Missouri

Dear Sir:

Your recent request for an official opinion reads as follows:

"Since the first of this year we have had several complaints about corporal punishment being administered to school children in this County.

"We would appreciate your opinion as to the legal test to determine when a criminal charge should be filed against school authorities for administering corporal punishment."

In the case of State v. Boyer, 70 Mo. Appeals, 156, at l.c. 159, the court in its opinion stated:

" \* \* \* The court in a great number of instructions told the jury in effect that a school teacher has the right to inflict a reasonable corporal punishment upon a pupil for a violation of any reasonable rule of his school, but that he has no right to inflict unreasonable and excessive corporal punishment, or with malice. This was undoubtedly the law. Bishop on Crim. Law, sec. 886; Dritt v. Snodgrass, 66 Mo. 286. \* \* \* "

In the case of State ex rel. v. Randall, 79 Mo. App. 226, at l.c. 230, the court stated:

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" \* \* \* The teacher of a school as to the children of his school, while under his care, occupies for the time being the position of parent or guardian, and it is his right and duty not only to enforce discipline to preserve order and to teach, but also to look after the morals, the health and the safety of his pupils; to do and require his pupils to do whatever is reasonably necessary to preserve and conserve all these interests, when not in conflict with the primary purposes of the school or opposed to law or a rule of the school board. Neither the law nor a rule of the school board was transgressed by the teacher in this instance; the order or request to Warren Beaty was reasonable, not unlawful, and he should have obeyed it.  
\* \* \* "

In the case of Haycraft v. Grigsby, 88 Mo. App. 354, at l.c. 359, the court stated:

" \* \* \* The law in regard to a teacher's right to punish a pupil is well settled in this State. The teacher has a right to inflict reasonable punishment for misconduct by whipping, but has no right to inflict unreasonable and excessive corporal punishment in that mode or any other. Nor can punishment in any degree be inflicted maliciously, namely, without just provocation. There is no such thing as reasonable punishment from a malicious motive. It must be administered for a salutary purpose--to maintain the discipline and efficiency of the school. State v. Boyer, 70 Mo. App. 156; State ex rel. v. Randall, 79 Mo. App. 226; Dritt v. Snodgrass, 66 Mo. 286. \* \* \* "

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In the case of *Christman v. Hickman*, 37 S.W. 2(d) 672, at l.c. 674, the court stated:

"5. Complaint is made of plaintiff's instructions 1, 2, and 4. Instruction 1 told the jury that, although teachers in public schools have a right under the law to inflict reasonable punishment upon the pupils, nevertheless a teacher has no right to inflict unreasonable or excessive punishment upon the pupils, and, if the jury found that the defendant did inflict unreasonable and excessive punishment upon the plaintiff, then they will find the issues in favor of the plaintiff. This instruction, by its terms, covers the whole case, and authorizes a verdict in plaintiff's behalf if the jury found defendant did inflict unreasonable or excessive punishment. The only criticism leveled against this instruction by defendant is that it furnishes no guide for the jury in arriving at a verdict, that the terms 'unreasonable' and 'excessive' are not defined, and that the instruction is confusing and misleading. Defendant has not cited any authority to support her contentions. The failure to define the words 'unreasonable' and 'excessive' is not reversible error. *Holmes v. Protected Home Circle*, 199 Mo. App. 528, 535, 204 S.W. 202; *Miller v. Firemen's Insurance Co.*, 206 Mo. App. 475, 493, 229 S.W. 261; *B. F. Goodrich Rubber Co. v. Newman* (Mo.App.) 271 S. W. 1029. \* \* \* "

From the above it will be seen that the holding of the cases is that a teacher is charged with the duty and responsibility of maintaining discipline and order in her school; that if to do this it is necessary to

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inflict corporal punishment upon a pupil, the teacher may do so, but that the punishment must be reasonable and proper under the circumstances, not cruel, unusual, excessive, or malicious. In other words, every case must be judged in the light of reason upon its own set of facts.

#### CONCLUSION

It is the opinion of this department that a teacher has the right to inflict corporal punishment upon a pupil if such punishment is necessary to maintain order and discipline in the school, but that such punishment must be reasonable and proper under all of the conditions and circumstances existing, that it must not be excessive, cruel, unusual, or malicious.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Mr. Hugh P. Williamson.

Yours very truly,

JOHN M. DALTON  
Attorney General

HPW:gm