CORPORAL PUNISHMENT PROHIBITED
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In passing Senate Bill 443 (ORS 339.250 (8) (a)), the 1989 Oregon Legislature made it clear that causing students pain as punishment has no place in Oregon schools.

The State Board of Education implemented the law by adopting temporary rules in September and permanent rules in March. The rules (OAR 581-21-250, 060, and 061) were sent to education service districts for distribution to all school districts.

Some commonly asked questions are answered here to assist educators in understanding and implementing the new law and rules.

What does reasonable physical force mean?
This is simply the amount of force which a reasonable person would consider necessary to achieve the desired result. Good judgment would dictate using the minimal amount of force.

What does reasonable physical force become corporal punishment?
It is a continuum and will depend on the facts of the situation. If students are fighting, forcibly pulling them apart or holding the student's hands behind his/her back would be examples of reasonable physical force. Slapping, kicking, or pulling a student's hair to break up a fight sounds excessively forcible, but could be considered reasonable physical force depending on the intensity of the fight. Hitting one of the students after you've broken up the fight would be corporal punishment unless it's a matter of self-defense because the student has turned his or her aggression on you.

The definition of corporal punishment speaks of physical pain. How do you know if a student will feel pain?
You don't; therefore school personnel may wish to ask themselves before acting: (1) Is this intended as punishment or discipline? (2) Is it likely to cause pain? If the answer is "yes" to both, don't do it! In considering whether a particular act is likely to cause pain, some factors to consider would be the student's age, size, and physical condition.

What are some examples of corporal punishment?
The obvious example is spanking or paddling; however, the intent of the Legislature was broader. While we do not have judicial decisions in Oregon which specify what acts constitute corporal punishment, the Department of Education's legal section, in response to specific questions, has recommended against: pulling a student's hair or ears, wrapping masking tape over the mouth and around the student's head, hitting hands with a ruler, hitting a student on the head with a book, making a student crawl to a locker, slapping, pinching, shaking or kicking a student, making a student stand outside in the cold, and allowing one student to hit or bite another in retaliation.

If parents spank their own child at home and want school personnel to use spanking as discipline, may/must the school follow the parent's wishes?
No, a parent's directive cannot overrule a statute or administrative rule which specifically prohibits the use of corporal punishment.

What if parents say it is their religious belief to physically discipline their child? Must the school then accommodate a parent's religious beliefs?
Administrative rule OAR 581-21-060 specifies that the school is not authorized to waive the prohibition against corporal punishment based upon parent request. If the school followed the parent's wishes it would not only violate the corporal punishment statute and administrative rule, but also would be endorsing the parent's particular religion by enforcing the parent's wishes. This probably violates the Oregon and U.S. Constitutions.

What about having students run laps or do pushups?
Although these may cause pain or discomfort for some students, they are allowed as part of conditioning or training in physical education classes and co-curricular athletics. Pain from team practice or class activities is exempted from the definition of corporal punishment, but pain from activities used as punishment or discipline is not.

What about hunger? May you keep a student from eating lunch?
This could be considered child abuse and if a school district participates in the school nutrition program, this practice would be prohibited under federal law.

What about the use of aversive techniques as part of a behavior management program?
Aversive techniques that result in physical pain or discomfort are exempted from the definition of corporal punishment only if the technique is part of an individualized education program which is signed by the parent and carried out according to district procedures.

What about isolation in a "time out" area of keeping a child in from recess?
The corporal punishment rules and statute do not speak to this. Any discipline practice, however, should be addressed in the district's student conduct code. There should be district guidelines to ensure fairness to both students and teachers.

What are the consequences if corporal punishment is used?
To meet the state standards, districts must have in place discipline policies which reflect the laws and administrative rules. If any district employee uses corporal punishment in violation of district policy, this could be a basis for dismissal or another discipline of the employee. Parents could report the use of corporal punishment to the Children's Services Division as child abuse or they could file criminal charges with a local law enforcement agency.

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MINIMUM STANDARDS FOR STUDENT CONDUCT AND DISCIPLINE

OAR 581-21-050 ("Physical discipline" was deleted from this rule as a topic to be addressed in the district's rules on pupil conduct.)

DISCIPLINE PROCEDURES, PROHIBITION OF CORPORAL PUNISHMENT

OAR 581-21-060 (1) School district boards shall establish fair and reasonable procedures for discipline, suspension, or expulsion.

(2) No student in Oregon shall be subjected to corporal punishment in any public elementary or secondary school. A school administrator is not authorized to waive the prohibition against corporal punishment based upon the request of a parent or guardian.

CORPORAL PUNISHMENT DEFINED

OAR 581-21-061 (1) Corporal punishment is any act which willfully inflicts or willfully causes the infliction of physical pain on a student.

(2) Corporal punishment does not include 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.

(3) Corporal punishment does not include physical pain or discomfort resulting from or caused by:

(a) Training for or participation in athletic competition voluntarily engaged in by a student;

(b) 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 aversives techniques 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.

I have received a copy of the minimum standards for student conduct and discipline, discipline procedures, prohibition of corporal punishment and definition of corporal punishment and read the corporal punishment questions and answers.

Signed: _______________________________ Date: _______________________________

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