

The limits and leeway in discipline at school

# Spare the Rod?

**W**hat happens when your child misbehaves at school? To what extent can teachers and school authorities discipline your child—without getting your consent or even letting you know about it in advance?

Generally speaking, the law views teachers as *in loco parentis*, which (although it sounds like “you have to be crazy to be a parent”) means that they stand in the place of the parent. Thus they may exercise the control over students reasonably necessary to perform the duties of a teacher and accomplish the purposes of education. This includes punishment.

## Later days and lower grades

So what kinds of punishment can a teacher or school official use? One long-standing method of enforcing discipline is detention—keeping pupils for a short time after the rest of the class has been dismissed or at the end of the school day. Courts have ruled that detention, if imposed in good faith and without malicious motives, is permissible and does not constitute false imprisonment. This is true even if the teacher is mistaken as to the justification for detaining a student.

Teachers and school officials also have the power to lower grades as a form of punishment for misbehavior. In some cases this might be ruled an appropriate penalty for a student’s truancy.

## Bigger deals

Probably most controversial is the power of teachers and school officials to impose corporal punishment on children. The general rule, unless modified by local statutes, is that teachers have the discretion to impose such punishment as long as it is reasonable and within the bounds of moderation.

If a teacher goes beyond these limits and inflicts excessive corporal punishment,

he (and the school) may be liable for the student’s consequent personal injuries. In such circumstances, a parent may be able to bring a claim against the teacher and the school for assault and battery, as well as for negligence. In extreme cases, teachers and school authorities who act maliciously may also face criminal liability.

## What’s reasonable?

Like anything else, it depends on the circumstances. The key is the level of force believed reasonably necessary for the child’s training or discipline. Among the factors to be considered are: the nature and severity of the pupil’s misconduct, the student’s attitude and past behavior, the severity of the punishment, the availability of less severe but equally effective means of discipline, the teacher’s motive in discipline, and the student’s age and physical condition. Special considerations may apply in the disciplining of physically or mentally handicapped students.

In some states, a teacher’s disciplinary actions are simply assumed to be reasonable. But that assumption can be overruled by evidence to the contrary. In one case, a broken paddle and a seriously bruised student supported a finding of excessive and unreasonable punishment. A similar result was obtained in a case in which a teacher kicked a student.

Nevertheless, courts have upheld the “paddling” of students by school officials, finding that such action is not “cruel and unusual punishment” under the Constitution. Some courts require that school authorities, before administering corporal punishment, give the student an opportunity to explain his or her version of the disruptive event, because that explanation may convince a fair-minded person that such punishment is not warranted. But courts have also permitted corporal punishment even where the school did not provide an opportunity for a formal “hearing” before it was imposed.

## Protect Your Child From Disciplinary Abuse:

1. Find out if there are any local statutes that prohibit or limit the power of school authorities to inflict physical discipline. If there aren’t any, organize parents to lobby elected officials to enact such legislation.
2. Discuss disciplining at PTA meetings or open houses so that everyone involved understands the situation. Propose a rule that no bodily punishment is to be inflicted for a first “offense.” Instead, substitute a warning that punishment will follow if the misbehavior is repeated. Propose that no corporal punishment can occur without prior parental consent, or at least notification.
3. Make sure your children understand the circumstances under which they may be punished at school. Then support the school’s effort to maximize the deterrent effect of that possibility.
4. Ask your child to tell you if she or a classmate has been physically disciplined at school. If you feel that your child was unjustly, inappropriately or excessively punished, discuss the matter with the teacher or school officials at once. If your child has been injured, have a physician examine him; take photographs to further detail the extent of injury. In extreme situations, consider contacting a lawyer to explore legal options.

Some courts require that the corporal punishment ordinarily must occur in the presence of another adult in addition to the teacher or individual administering it.

*Note: The discussion in this article is intended to provide general information and should not be taken as legal advice. MD*

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