

## **Part 8**

### **Physical Restraint Guidelines**

#### **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.

Enacted by Chapter 251, 1992 General Session

#### **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.

Enacted by Chapter 251, 1992 General Session

#### **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.

Amended by Chapter 260, 1994 General Session

**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.

Enacted by Chapter 251, 1992 General Session

**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.

Enacted by Chapter 251, 1992 General Session

**53A-11-806 Defacing or injuring school property -- Student's liability -- Voluntary work program alternative.**

- (1) Any student who willfully defaces or otherwise injures any school property may be suspended or otherwise disciplined.
- (2)
  - (a) Any school district whose property has been lost or willfully cut, defaced, or otherwise injured may withhold the issuance of official written grade reports, diploma, and transcripts of the student responsible for the damage or loss until the student or the student's parent or guardian has paid for the damages.
  - (b) The student's parent or guardian is liable for damages as otherwise provided in Section 78A-6-1113.
- (3)
  - (a) If the student and the student's parent or guardian are unable to pay for the damages or if it is determined by the school in consultation with the student's parents that the student's interests would not be served if the parents were to pay for the damages, then, the school district shall provide for a program of voluntary work for the student in lieu of the payment.
  - (b) The district shall release the official grades, diploma, and transcripts of the student upon completion of the voluntary work.
- (4) Before any penalties are assessed under this section, the local school board shall adopt procedures to insure that the student's right to due process is protected.
- (5) No penalty may be assessed for damages which may be reasonably attributed to normal wear and tear.

- (6) If the Department of Human Services or a licensed child-placing agency has been granted custody of the student, that student's records, if requested by the department or agency, may not be withheld from the department or agency for nonpayment of damages under this section.

Amended by Chapter 3, 2008 General Session