



# Spotlight on Policy

Policies and Regulations You Probably Never Knew Existed

## CORPORAL PUNISHMENT THANKS TO VEA, THE LAW GIVES BENEFIT OF DOUBT TO TEACHERS

**W**hile the state prohibits corporal punishment, students are fooling themselves if they think that clears the way for school house anarchy.

VEA legislative efforts ensured that school employees would have clear options in controlling the classroom and personal liability safeguards.

Virginia code section §2.1-279.1 that went into effect in 1989 clearly defines what is corporal punishment. For the state's purposes, it is considered to be "the infliction of, or causing the infliction of physical pain on a student as a means of discipline."

**It's not just pain, but pain as a means of discipline.** Under this straight-forward definition, a teacher who accidentally touches a sore on a student's arm and causes pain is not breaking the law because 1) the teacher didn't intend to hurt the student, and 2) the teacher didn't intend to discipline the student.

**Anything from the jab in the shoulder, a rap on the knuckles or a pinch on the arm to a whipping, a paddling or a punch is against the law if it's used for disciplinary purposes.**

Prior to 1989, there was so much room for interpretation that even yelling at the class for the purpose of modifying behavior was lumped in as corporal punishment.

*The best thing about the law is it says what you **can** do.*

- You can use "incidental, minor or reasonable physical contact or other actions designed to maintain order and control" as long as you don't inflict pain.
- You can use "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."
- You can use "reasonable and necessary force to prevent a student from inflicting physical harm on himself."
- You can use "reasonable and necessary force for self-defense or the defense of others."
- And, you can use "reasonable and necessary force to obtain possession of weapons and other dangerous objects or controlled substances or paraphernalia which are upon the person of the student or within his control."

Within these parameters, a teacher can still take hold of a student's arm and say, "Sit down, young man. You're misbehaving." **The current law makes it clear that the use of gentle force is not corporal punishment. Under the old law, it was arguable.**

What constitutes reasonable physical force is up to the judge to decide, but the current law gives the benefit of the doubt to the school employee. Hindsight may show the amount of force to be excessive, but the law says "due deference shall be given to reasonable judgments

(made) at the time of the event."

The provisions allowing "reasonable force" take into account the situations created by students who may be exceptionally strong, volatile or otherwise hard to handle. Force that might otherwise be considered excessive might be appropriate. However, special education teachers may need to be more diligent in drafting IEPs so that special circumstances are apparent, not only to the school employees who might come in contact with the student, but also to the parents.

**The provisions for the use of force in connection with obtaining a controlled substance from a student is not limited to drugs.** It could be a substance controlled by the school, for example, boom-boxes and two-way radios that are banned from the school premises because of their potentially disruptive nature.

Specific language in the current law makes it clear that the kind of pain inflicted by extra pushups or extra laps around the gym is not considered corporal punishment as long as the student's participation is voluntary. The reason for the exclusion of interscholastic sports and extracurricular activities is lawmakers felt the students could say "no" and walk away from the activity if the coach or the sponsor asked too much of them.

School employees who are being taunted by students saying, "You can't touch us," need only to familiarize themselves with the law. VEA saw to it that the state did not ignore classroom reality.