

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H

2

HOUSE BILL 1682*
Committee Substitute Favorable 5/25/10

Short Title: Corp. Punish. and Children W/Disabilit.

(Public)

Sponsors:

Referred to:

May 13, 2010

A BILL TO BE ENTITLED

AN ACT TO PROHIBIT THE USE OF CORPORAL PUNISHMENT ON A STUDENT WITH A DISABILITY AS DEFINED IN G.S. 115C-106.3(1) OR SECTION 504 OF THE FEDERAL REHABILITATION ACT OF 1973 WHOSE PARENT OR GUARDIAN HAS STATED IN WRITING THAT CORPORAL PUNISHMENT SHALL NOT BE ADMINISTERED ON THAT STUDENT, AND TO REQUIRE LOCAL BOARDS OF EDUCATION TO REPORT OCCURRENCES OF CORPORAL PUNISHMENT TO THE STATE BOARD OF EDUCATION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-107.7 reads as rewritten:

"§ 115C-107.7. ~~Discipline~~ **Discipline, corporal punishment, and homebound instruction.**

(a) The policies and procedures for the discipline of students with disabilities shall be consistent with federal laws and regulations.

(a1) Any corporal punishment administered on students with disabilities shall be consistent with the requirements of G.S. 115C-391(a)(5).

(b) If a change of placement occurs under the discipline regulations of IDEA, a local educational agency shall not assign a student to homebound instruction without a determination by the student's IEP team that the homebound instruction is the least restrictive alternative environment for that student. If it is determined that the homebound instruction is the least restrictive alternative environment for the student, the student's IEP team shall meet to determine the nature of the homebound educational services to be provided to the student. In addition, the continued appropriateness of the homebound instruction shall be evaluated monthly by the designee or designees of the student's IEP team.

(c) **(Effective January 1, 2009, and expires March 1, 2011 – see notes)** A local educational agency shall be deemed to have a "basis of knowledge" that a child is a child with a disability if, prior to the behavior that precipitated the disciplinary action, the behavior and performance of the child clearly and convincingly establishes the need for special education. Prior disciplinary infractions shall not, standing alone, constitute clear and convincing evidence."

SECTION 2. G.S. 115C-391 reads as rewritten:

(a) Local boards of education shall adopt policies not inconsistent with the provisions of the Constitutions of the United States and North Carolina, governing the conduct of students and establishing procedures to be followed by school officials in suspending or expelling any student, or in disciplining any student if the offensive behavior could result in suspension, expulsion, or the administration of corporal punishment. Local boards of education shall include a reasonable dress code for students in these policies.



1 The policies that shall be adopted for the administration of corporal punishment
2 shall include at a minimum the following conditions:

- 3 (1) Corporal punishment shall not be administered in a classroom with other
4 ~~children present;~~students present.
- 5 (2) The student body shall be informed beforehand what general types of
6 misconduct could result in corporal ~~punishment;~~punishment.
- 7 (3) Only a teacher, substitute teacher, principal, or assistant principal may
8 administer corporal punishment and may do so only in the presence of a
9 principal, assistant principal, teacher, substitute teacher, teacher assistant, or
10 student teacher, who shall be informed beforehand and in the student's
11 presence of the reason for the ~~punishment;~~and punishment.
- 12 (4) An appropriate school official shall provide the ~~child's~~student's parent or
13 guardian with notification that corporal punishment has been administered,
14 and upon request, the official who administered the corporal punishment
15 shall provide the ~~child's~~student's parent or guardian a written explanation of
16 the reasons and the name of the second school official who was present.
- 17 (5) Corporal punishment shall not be administered on a student who is a child
18 with a disability as defined in G.S. 115C-106.3(1) or on a student with a
19 disability who is covered under section 504 of the federal Rehabilitation Act
20 of 1973, as amended, 29 U.S.C. § 794, whose parent or guardian has stated
21 in writing that corporal punishment shall not be administered on that student.
22 Parents and guardians shall be given a form to make such an election at the
23 beginning of the school year or when the student first enters the school
24 during the year. If a parent or guardian has not submitted in writing that
25 corporal punishment shall not be used on the student, then the form shall be
26 presented to the parent or guardian at the first individualized education
27 program or section 504 plan meeting held during the school year.

28 Each local board shall publish all the policies mandated by this subsection and make them
29 available to each student and ~~his~~each student's parent or guardian at the beginning of each
30 school year. Notwithstanding any policy adopted pursuant to this section, school personnel may
31 use reasonable force, including corporal punishment, to control behavior or to remove a person
32 from the scene in those situations when necessary:

- 33 (1) To quell a disturbance threatening injury to others;
34 (2) To obtain possession of weapons or other dangerous objects on the person,
35 or within the control, of a student;
36 (3) For self-defense;
37 (4) For the protection of persons or property; or
38 (5) To maintain order on school property, in the classroom, or at a
39 school-related activity on or off school property.

40 (a1) Each local board of education shall report annually to the State Board of Education,
41 in a manner prescribed by the State Board of Education, on the number of times that corporal
42 punishment was administered. The report shall be in compliance with the federal Family
43 Educational Rights and Privacy Act, 20 U.S.C. § 1232g and shall include the following:

- 44 (1) The number of students who received corporal punishment.
45 (2) The number of students who received corporal punishment who were also
46 students with disabilities and were eligible to receive special education and
47 related services under the federal Individuals with Disabilities Education
48 Improvement Act, 20 U.S.C. § 1400, et seq.
49 (3) The grade of the students who receive corporal punishment.
50 (4) The race of the students who received corporal punishment.

51"

1 **SECTION 3.** This act is effective when it becomes law and applies beginning with
2 the 2010-2011 school year.