

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

HOUSE BILL 1682
RATIFIED BILL

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:

"§ 115C-391. **Corporal punishment, suspension, or expulsion of pupils.**

(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.

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

- (1) Corporal punishment shall not be administered in a classroom with other ~~children present;~~students present.
- (2) The student body shall be informed beforehand what general types of misconduct could result in corporal ~~punishment;~~punishment.
- (3) Only a teacher, substitute teacher, principal, or assistant principal may administer corporal punishment and may do so only in the presence of a principal, assistant principal, teacher, substitute teacher, teacher assistant, or student teacher, who shall be informed beforehand and in the student's presence of the reason for the ~~punishment; and~~punishment.



- (4) An appropriate school official shall provide the ~~child's~~ student's parent or guardian with notification that corporal punishment has been administered, and upon request, the official who administered the corporal punishment shall provide the ~~child's~~ student's parent or guardian a written explanation of the reasons and the name of the second school official who was present.
- (5) Corporal punishment shall not be administered on a student who is a child with a disability as defined in G.S. 115C-106.3(1) or on a student with a disability who is covered under section 504 of the federal Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, whose parent or guardian has stated in writing that corporal punishment shall not be administered on that student. Parents and guardians shall be given a form to make such an election at the beginning of the school year or when the student first enters the school during the year. If a parent or guardian has not submitted in writing that corporal punishment shall not be used on the student, then the form shall be presented to the parent or guardian at the first individualized education program or section 504 plan meeting held during the school year.

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

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

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

- (1) The number of students who received corporal punishment.
- (2) The number of students who received corporal punishment who were also students with disabilities and were eligible to receive special education and related services under the federal Individuals with Disabilities Education Improvement Act, 20 U.S.C. § 1400, et seq.
- (3) The grade level of the students who received corporal punishment.
- (4) The race and ethnicity of the students who received corporal punishment.
- (5) The reason for the administration of the corporal punishment for each student who received corporal punishment.

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

In the General Assembly read three times and ratified this the 6th day of July, 2010.

Walter H. Dalton
President of the Senate

Joe Hackney
Speaker of the House of Representatives

Beverly E. Perdue
Governor

Approved _____ .m. this _____ day of _____, 2010