

Opinion No. 16-1890

October 27, 1916

BY: H. S. CLANCY, Assistant Attorney General

TO: Mr. C. E. Cusack, Tucumcari, New Mexico.

Control to be exercised by a teacher over pupils outside of school hours, and right to inflict corporal punishment.

OPINION

{*437} I am in receipt of your letter of the 24th instant in which you ask for the opinion of this office as to the control to be exercised by a teacher over a pupil outside of school hours, and also as to the right of a teacher to inflict corporal punishment upon a pupil.

The different courts of this country have held that as a general rule a school teacher, to a limited extent at least, stands **in loco parentis** to pupils under his charge, and may exercise such control and correction over them as may be reasonably necessary to enable him to properly perform his duties as a teacher, and such control by the teacher over the conduct of pupils is not confined to the school room and school premises, but extends over the pupil from the time he leaves home to go to school until he returns home from school, as to acts which pertain to duties within the school room, and where the effect of acts done out of a school room, while the pupil is coming to or going from school, is detrimental to good order and the best interests of the school, the teacher may punish such offending pupil when he comes to school.

In regard to the infliction of corporal punishment, the courts of perhaps a majority of the states of this country, and in England and Canada, have held, as is set out in 35 Cyclopaedia of Law and Practice, page 1137, as follows:

"As a general rule a school-teacher, in so far as it may be reasonably necessary to the maintenance of the discipline and efficiency of the school, and to compel a compliance with reasonable rules and regulations, may inflict reasonable corporal punishment upon a pupil for insubordination, disobedience, or other misconduct; but a teacher cannot inflict corporal punishment to enforce an unreasonable rule, to compel a pupil to pursue a study forbidden by his parent, or to compel him to do something which his parent has requested that he be excused from doing, although the teacher may be justified in refusing to permit the attendance of a pupil whose parent will not consent that he shall obey the rules of the school. The infliction of corporal punishment by a teacher is largely within his discretion; but he must exercise sound discretion and judgment in determining the necessity for corporal punishment and the reasonableness thereof, under the varying circumstances of each particular case, and must adapt the punishment to the nature of the offense, and to the age and mental condition and personal attributes of the offending pupil, and, considering the circumstances and conditions of the particular

offense and pupil, the punishment must not be inflicted {^{*438}} with such force or in such a manner as to cause it to be cruel or excessive or wanton or malicious."

I trust that the foregoing will enlighten you upon the subjects inquired about.