

Opinion No. 21-2777

January 12, 1921

BY: HARRY S. BOWMAN, Attorney General

TO: Mr. John V. Conway, Superintendent of Public Instruction, Capitol Building.

Authority of School Teachers to Inflict Corporal Punishment Upon Pupils.

OPINION

{*15} I have before me a letter from Mrs. J. U. McBurney, of Abbott, New Mexico, addressed to you, asking if a school teacher is permitted to administer corporal punishment to a pupil in opposition to the wishes of the parents of such pupil.

The statutes of this state contain nothing governing this subject and in the absence of a statutory regulation concerning such a matter, the general provisions of law would prevail.

The general rule upon the subject is that a school teacher, in so far as it may be reasonably necessary to maintain discipline and efficiency in the school, and to compel a compliance with reasonable rules and regulations, may inflict corporal punishment upon a pupil for insubordination, disobedience or other misconduct. A teacher, however, may not inflict corporal punishment to enforce an unreasonable rule, or to compel a student to pursue a study forbidden by the parents, or to compel him to do something which his parents have requested that he be excused from doing, although the teacher may be justified in refusing to permit the attendance of a pupil where his parents will not consent that he shall obey the rules of the school.

The infliction of corporal punishment by a teacher is largely within the discretion of the teacher, 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 the personal attributes of the offending pupil, and consider the circumstances and conditions of the particular offense; and the punishment must not be inflicted with such force or in such a manner as to cause it to be cruel or excessive or wanton or malicious.

I believe that with the foregoing before her, the writer of the letter above mentioned will be able to determine whether or not she is authorized to inflict corporal punishment in the cases which she had in mind at the time of the writing of her letter.

I am returning to you herewith Mrs. McBurney's letter.