

## Opinion No. 21-2778

January 12, 1921

**BY:** HARRY S. BOWMAN, Attorney General

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

### **Punishment of Pupils by Expulsion from School for Misconduct**

#### **OPINION**

{\*15} We have before us a letter from Mrs. Blanche Parrett, County Superintendent of Schools of Torrance County, addressed to you asking for information concerning the expulsion from school of pupils for misconduct.

The first question involves the jurisdiction of the district court over a delinquent student who has been expelled from school for drawing a knife upon the teacher.

We know of no law which gives the district court or a district judge any right to order the return to school of a pupil who is guilty of an assault upon the teacher, such as that which is mentioned in the letter.

{\*16} The second question propounded refers to a student who has run away from home twice at a time when an attempt was made to enforce his attendance at school, and your correspondent inquires if the authorities are justified in issuing a warrant and bringing him back.

The laws governing the question of suspension and expulsion from school are very similar to those which govern the right to inflict corporal punishment upon a pupil.

The power of expelling or suspending a pupil is usually in the school board which has the power of control and government of the school. The teacher, also has the inherent power, where the interests of the school require it, to suspend a pupil in a proper case, and should make report thereof to the school board, unless the teacher has been deprived of such power by the affirmative action of the board.

A teacher cannot permanently expel a pupil from school unless he acts under an order of the school board. We do not anticipate that any court would order a school board or a teacher to keep a pupil in school who refuses to obey the rules and regulations and whose attendance would jeopardize the discipline of the school.

If the pupil mentioned in your correspondent's letter will not obey the rules and regulations the teacher has authority to expel or suspend him, and no court would interfere with that discretion properly exercised.

In so far as a warrant for the student who has run away is concerned, we do not believe that such a procedure would be proper or is authorized by law.

We are returning herewith the letter of Mrs. Parrett.