

Supplement to item P-12 (D) 1

Proposed Amendment of Section 19.5 of the Rules of the Board of Regents and Sections 100.2, 200.1, 200.7, 200.15, and 200.22 of the Regulations of the Commissioner of Education Relating to the Prohibition of Corporal Punishment, Aversive Interventions, Prone Restraint and Seclusion; Permitted Use of Timeout and Restraint; and Data Collection



THE SECRETARY OF EDUCATION
WASHINGTON, DC 20202

March 23, 2023

Dear Governors, Chief State School Officers, and School District and School Leaders:

Our nation's schools should make every effort to provide children and youth with safe and supportive environments that protect and enhance their physical, emotional, and mental well-being. Unfortunately, some schools continue to put the mental and physical well-being of students at risk by implementing the practice of corporal punishment,¹ defined by the U.S. Department of Education (Department) as the practice of paddling, spanking, or otherwise imposing physical punishment on students.² Therefore, if the use of corporal punishment is permitted or practiced in schools and educational settings within your state or district, I urge you to move swiftly toward condemning and eliminating it.

Laws in a majority of states and the District of Columbia ban the use of corporal punishment in public schools,³ and other states have prohibited the use of corporal punishment for students with disabilities.⁴ According to the Department's Civil Rights Data Collection (CRDC), the number of public school students subjected to corporal punishment declined between the 2013-14 to the 2017-18 school years.⁵ However, the use of corporal punishment in school is either expressly allowed or not expressly prohibited in 23 states.⁶ Furthermore, researchers have determined that the use of corporal punishment in schools is likely underreported.⁷

Corporal punishment can lead to serious physical pain and injury.⁸ It is also associated with higher rates of mental health issues, including mood, anxiety, and other personality disorders;⁹ drug and alcohol use disorders;¹⁰ higher rates of aggression, antisocial behavior, and other externalizing problems;¹¹ and lower cognitive ability relating to verbal capacity,¹² brain development,¹³ and academic achievement.¹⁴ Corporal punishment also has long-term implications in early childhood development. Research indicates that preschoolers subjected to corporal punishment measure lower on academic achievement and social competence, when compared to peers who have not received physical punishment as a means of discipline.¹⁵ Additionally, from a public health and public safety perspective, corporal punishment may impress upon students who are subjected to this practice—directly and indirectly—that violence is an acceptable means of problem-solving and conflict resolution, as research shows that the practice is associated with future incidents of domestic violence.¹⁶

The CRDC data also reflects that students of color, boys, and students with disabilities are reported to be disproportionately subjected to corporal punishment.¹⁷ In the 2017-2018 school year, nearly 900 preschool students were subjected to corporal punishment.¹⁸ Boys represented about 81 percent of all students subjected to corporal punishment, but only account for about 50 percent of the total public school student population. As captured in this Office for Civil Rights [infographic](#), Black students were 2.3 times more likely than white students to receive corporal punishment.¹⁹ These disparities are particularly acute for Black students and students who

represent more than one of these groups. In states that reported instances of corporal punishment, Black boys were twice as likely as white boys to be subjected to corporal punishment, and Black girls were 4 times as likely as white girls to be subjected to corporal punishment.²⁰ In some states, other student subgroups, such as Native American students, are subject to corporal punishment at disparate rates.²¹

The practice of corporal punishment is antithetical to positive child and adolescent development and school safety.²² Evidence-based strategies, such as multi-tiered systems of supports and positive behavioral interventions and supports,²³ and other research-backed educational practices are designed to meet students' social, emotional, and mental health needs and improve school climate and safety.²⁴ Funding under the [American Rescue Plan Act of 2021](#), the [Bipartisan Safer Communities Act](#), and the Elementary and Secondary Education Act of 1965 can be used to support these evidence-based practices consistent with program requirements. Furthermore, the Department will continue to support schools in their efforts to move away from the use of corporal punishment through its technical assistance centers, including the [Best Practices Clearinghouse](#), [National Center on Safe Supportive Learning Environments](#), and [National Center to Improve Social and Emotional Learning and School Safety](#), among other resources.

Schools should be safe places where all students and educators interact in positive ways that foster students' growth, belonging, and dignity—not places that teach or exacerbate violence and fear. Let's all work together to move away from this harmful practice and to create learning environments that are safe and supportive for all students.

Sincerely,



Miguel A. Cardona, Ed.D.
U.S. Secretary of Education

Endnotes

¹ In its July 2022 [guidance](#) on discipline of children with disabilities under the Individuals with Disabilities Education Act (IDEA), the Department addressed the use of aversive practices, including restraint and seclusion. Aversive practices include, but are not limited to, restraint, seclusion, unpleasant spray to the face, securing a student to a chair (unrelated to providing occupational therapy or other medical support), and taping a student's mouth, as well as the use of electrical stimulation devices for the purpose of addressing self-injurious behavior or aggressive behavior. The Department is not aware of any evidence-based support for the view that the use of restraint or seclusion is an effective strategy in modifying a child's behaviors that are related to their disability. The Department's longstanding position is that every effort should be made to prevent the need for the use of restraint or seclusion and that behavioral interventions must be consistent with the child's rights to be treated with dignity and to be free from discrimination and abuse. Further, the Department's position is that restraint or seclusion should not be used except in situations where a child's behavior poses imminent danger of serious physical harm to themselves or others. The Department has developed and disseminated a resource document recommending that physical restraint or seclusion "never be used as punishment or discipline." For more information, see; [Questions and Answers: Addressing the Needs of Children with Disabilities and IDEA's Discipline Provisions](#) (OSEP Q&A 22-02); May 15, 2012 letter from former Secretary Arne Duncan to educators, accompanying the Department's [Restraint and Seclusion: Resource Document](#) and [2016 Dear Colleague Letter: Restraint and Seclusion of Students with Disabilities](#). Additionally, for information on how the use of corporal punishment and restraints and seclusion may violate the rights of students with disabilities, please see OCR's guidance, [Supporting Students with Disabilities and Avoiding the Discriminatory Use of Student Discipline Under Section 504 of the Rehabilitation Act of 1973](#) (July 2022).

² US Department of Education Office for Civil Rights. (2018). Civil rights data collection Master List of CRDC Definitions.

³ The states where corporal punishment is expressly prohibited are Alaska, California, Delaware, Hawaii, Illinois, Iowa, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nebraska, Nevada, New Jersey, New Mexico, New York, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, Utah, Vermont, Virginia, Washington, West Virginia, and Wisconsin.

⁴ See, e.g., 704 KY. ADMIN. REG. 7:170 (2022); LA. R.S. § 17:416.1 (2017); MISS CODE ANN. § 37-11-57 (2019); OKLA. ADMIN. CODE § 210:15-13-9 (2017); TENN. CODE ANN. § 49-6-4103 (2018).

⁵ Corporal Punishment in Public Schools, US Department of Education, OCR (September 2022, updated March 2023), <https://www2.ed.gov/about/offices/list/ocr/docs/corporal-punishment-part-4.pdf> (last visited March 21, 2023); 2017-18 State and National Estimations, CIV. RTS. DATA COLLECTION, 2017-18 State and National Estimations, <https://ocrdata.ed.gov/estimations/2017-2018> (last visited July 6, 2022).

⁶ According to a review of laws and policies by the US Department of Education, depending on the state, corporal punishment remains legal because state law either expressly allows corporal punishment in at least some circumstances or does not expressly prohibit it. The following states expressly allow corporal punishment in schools: Alabama, Arkansas, Arizona, Florida, Georgia, Idaho, Kentucky, Louisiana, Mississippi, Missouri, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, and Wyoming. Some states that expressly allow corporal punishment also expressly prohibit it for students with disabilities, see, e.g., Kentucky, Louisiana, Mississippi, Oklahoma, and Tennessee. Other states do not expressly prohibit corporal punishment in schools, those states are: Colorado (prohibits only for students with disabilities), Connecticut, Kansas, Indiana, Maine, New Hampshire, and South Dakota.

⁷ Gershoff, E. T., & Font, S. A. (2016). Corporal punishment in US public schools: Prevalence, disparities in use, and status in state and federal policy. Social policy report, 30; Farmer, A. (2009). Impairing education: Corporal punishment of students with disabilities in US public schools. Human Rights Watch. 2017-18 State and National Estimations, CIV. RTS. DATA COLLECTION, <https://ocrdata.ed.gov/estimations/2017-2018> (last visited July 6, 2022); See also Mark Keierleber, *Kids Keep Getting Hit at School, Even where Corporal Punishment is Banned*, THE 74 (May 19, 2021), <https://www.the74million.org/article/kids-keep-getting-hit-at-school-even-where-corporal-punishment-is-banned/>.

⁹ Tracie O. Afifi et al., (2012), *Physical Punishment and Mental Disorders: Results from a Nationally Representative US Sample*, 130 PEDIATRICS no. 2, 184-92 (2012); Tracie O. Afifi, et al., *Spanking and Adult Mental Health Impairment: The Case for the Designation of Spanking as an Adverse Childhood Experience*, 71 CHILD ABUSE & NEGLECT, Sept. 2017 at 24–31.

¹⁰ *Id.*

¹¹ Katherine J. Aucoin, Paul J. Frick, & S. Doug Bodin, *Corporal Punishment and Child Adjustment*, 27 J. APPLIED DEV. PSYCH. 527, 528-30 (2006); Irwin A. Hyman & Donna C. Perone, *The Other Side of School Violence: Educator Policies and Practices That May Contribute to Student Misbehavior*, 36 J. SCH. PSYCH. 7 (1998).

¹² MacKenzie, M. J., Nicklas, E., Waldfoegel, J., & Brooks-Gunn, J. (2013). Spanking and child development across the first decade of life. *Pediatrics*, 132(5), e1118-e1125.

¹³ Gershoff, E. T. (2016). Should parents' physical punishment of children be considered a source of toxic stress that affects brain development? *Family relations*, 65(1), 151-162.

¹⁴ *Corporal Punishment in Schools and Its Effect on Academic Success: Hearing Before the Subcomm. on Healthy Families and Communities of the H. Comm. On Ed. and Labor*, 111th Cong. (2010); Akemi Tomoda, Hanako Suzuki, Keren Rabi, Yi-Shen Sheu, Ann Polcari, & Martin H. Teicher, *Reduced Prefrontal Cortical Gray Matter Volume in Young Adults Exposed to Harsh Corporal Punishment*, 47 NEUROIMAGE T66, T68-70 (2009).

¹⁵ Elizabeth Gershoff et al., *School Corporal Punishment and Its Association with Achievement and Adjustment*, 63 J. APPLIED DEV. PSYCH. 1-8 (2019).

¹⁶ Gershoff, E.T. Corporal punishment by parents and associated child behaviors and experiences: A meta-analytic and theoretical review. *Psychol Bull* 2002;128:539-79; Temple, J. R., Choi, H.J, Reuter, T., Wolfe, D., Taylor, C.A., Madigan, S., & Scott, L. E. (2018). Childhood corporal punishment and future perpetration of physical dating violence, *Journal of Pediatrics*, 194, 233-237.

¹⁷ CIV. RTS. DATA COLLECTION, <https://ocrdata.ed.gov/> (last visited July 6, 2022); U.S. GOV'T ACCOUNTABILITY OFF., DISCIPLINE DISPARITIES FOR BLACK STUDENTS, BOYS, AND STUDENTS WITH DISABILITIES, (2018), <https://www.gao.gov/assets/gao-18-258.pdf>.

¹⁸ CIV. RTS. DATA COLLECTION, 2017-18 State and National Estimations, Preschool Discipline, <https://ocrdata.ed.gov/estimations/2017-2018> (last visited July 6, 2022).

¹⁹ Corporal Punishment in Public Schools, US Department of Education, OCR (September 2022, updated March 2023), <https://www2.ed.gov/about/offices/list/ocr/docs/corporal-punishment-part-4.pdf> (last visited March 21, 2023).

²⁰ Calculations based on *2017-18 State and National Estimations*, CIV. RTS. DATA COLLECTION, <https://ocrdata.ed.gov/estimations/2017-2018> (last visited July 6, 2022).

²¹ *Id.*

²² Gershoff, E. T. (2010). More harm than good: A summary of scientific research on the intended and unintended effects of corporal punishment on children. *Law and Contemporary Problems*, 73(2), 31.

²³ *Schools*, NAT'L CHILD TRAUMATIC STRESS NETWORK, www.nctsn.org/trauma-informed-care/creating-trauma-informed-systems/schools (last visited July 5, 2022); Helping Traumatized Children Learn, TRAUMA AND LEARNING POL'Y INITIATIVE, <https://traumasensitiveschools.org/> (last visited July 5, 2022); CTR. ON POSITIVE BEHAV. INTERVENTIONS & SUPPORTS, www.pbis.org/.

²⁴ COLLABORATIVE ACAD., SOC., AND EMOTIONAL LEARNING, <https://casel.org/>; Strategies to Create a Healthy and Supportive School Environment, CDC (last updated September 2, 2022); Sarah Klevan, *Building a Positive School Environment Through Restorative Practices*, LEARNING POL'Y INS. (Oct. 18, 2021),

<https://learningpolicyinstitute.org/product/wce-positive-school-climate-restorative-practices-brief>; INT'L INS. RESTORATIVE PRACS., www.iirp.edu/ (last visited July 5, 2022).22), www.cdc.gov/healthyschools/sec_schools.htm.