



Impairing Education

Corporal Punishment of Students with Disabilities in US Public Schools

I. Summary

Landon K., a six-year-old boy with autism, was in first grade at his Mississippi elementary school when his assistant principal, “a big, 300-lb man, picked up an inch thick paddle and paddled him [on the buttocks].” His grandmother, Jacquelyn K., reported, “my child just lost it ... he was screaming and hollering ... it just devastated him.” Jacquelyn knew that paddling was harmful for children with autism: “I had already signed a form saying they couldn’t paddle. I sent that form in every year ... When a child with autism has something like that happen, they don’t forget it. It’s always fresh in their minds.”

Landon was traumatized and became terrified of school. “He was a nice, quiet, calm boy,” noted Jacquelyn, but after the paddling, “he was screaming, crying, we had to call the ambulance, they had to sedate him ... The next day, I tried to take him to school, but I couldn’t even get him out of the house. He was scared of going over there, scared it would happen again ... We carried him out of the house, he was screaming. We got him to school but had to bring him back home ... Now he has these meltdowns all the time. He can’t focus, he cries.”

Jacquelyn withdrew Landon from school, fearing for his physical safety and mental health. She was threatened by truant officers: “[They] said I’d go to jail if I didn’t send him back to school ... If I felt he would have been safe in school, he would have been there. I’m sure they would have paddled him again. I don’t trust them. If they don’t know what they’re dealing with, how can they teach a child? And the sad thing about it, he can learn. He can learn.”¹

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Jonathan C., a 15-year-old boy with autism, was repeatedly subjected to corporal punishment at his Florida school. On October 2, 2008, for example, he was picked up by a male staff member and thrown “into the tile floor, face-first,” after screaming in the cafeteria and running away from a staff member. Staff members dragged him to a meeting room, where the male staff member “put him in a chokehold. Other staff members [came] running. Three or four of them tackle[d] him, and he [was] thrown to the floor again.” The staff members used their strength and body weight to pin Jonathan, face-down, to the floor.

¹ American Civil Liberties Union (ACLU) telephone interview with Jacquelyn K., Mississippi, April 14, 2009.

After Jonathan sustained injuries, including a deep cut to the bridge of his nose and bruises to his forehead, Rose C., Jonathan's mother, was able to obtain video of her son's treatment at school. She was shocked. "They had been picking him up, throwing him into the tile floor like a wrestler. They'd ... pick him up by all four limbs. You can see where they're dragging him ... They're carrying him like a wild animal."

Jonathan started to get more and more agitated during the months he was subjected to physical abuse. He was "having aggressive episodes, he was knocking people over ... I asked him, what was wrong." Jonathan, like many children with autism, has limited communication abilities. "He can't explain ... Every time he got upset, he would scream at the top of his lungs ... He was throwing fits because he was getting hurt." Ultimately, Rose withdrew her son from school and enrolled him in a different program. Nonetheless, she feels considerable guilt. "I trusted the school, I trusted them to do the right thing ... All this abuse happened on my watch. It never should have happened. I feel so guilty."²

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A 2008 American Civil Liberties Union (ACLU)/Human Rights Watch report found that corporal punishment in public schools is routine in many parts of the US, and that almost a quarter-of-a-million school children were subjected to this violent, degrading punishment in the 2006-2007 school year.³ Twenty states permit corporal punishment; in states where the practice is permitted, hundreds of school districts make routine use of it. Corporal punishment comes with risk of serious physical injury and lasting mental trauma. Studies show that beatings can damage the trust between educator and student, corrode the educational environment, and leave the student unable to learn effectively, making it more likely that she will drop out of school.

Students with disabilities—who are entitled to appropriate, inclusive educational programs that give them the opportunity to thrive—are subjected to violent discipline at disproportionately high rates. Students with disabilities make up 19 percent of those who receive corporal punishment, yet just 14 percent of the nationwide student population. Human rights law protects students with disabilities from violence and cruel and inhuman treatment, and guarantees them non-discriminatory access to an inclusive education. Furthermore, as President Obama noted when signing the UN Convention on the Rights of

² ACLU telephone interview with Rose C., Florida, May 18, 2009.

³ Human Rights Watch/ACLU, *A Violent Education: Corporal Punishment of Children in US Public Schools*, August 2008, <http://www.hrw.org/en/content/a-violent-education>. *A Violent Education* focuses on corporal punishment in general; this report focuses on corporal punishment of students with disabilities.

Persons with Disabilities on July 24, 2009, US law has attempted to ensure that “children with disabilities were no longer excluded ... and then no longer denied the opportunity to learn the same skills in the same classroom as other children.”⁴ Yet in countless US public schools, students with disabilities—who already face barriers to attaining a quality education—face physical violence that further discourages them from reaching their full potential.

Corporal Punishment of Students with Disabilities

Much of the corporal punishment in US public schools takes the form of paddling. This report focuses on public schools, including mainstream schools (some of which have special education classrooms within those schools) and alternative schools.⁵ Some students are paddled, or, in other words, hit on the buttocks several times with a wooden board resembling a shaved-down baseball bat. The punishment causes immediate pain, and in some cases, lasting injury and mental trauma. Paddling, which is legal in 20 states, is routinely used at disproportionately high rates against students with disabilities.

Students with disabilities are routinely subjected to other forms of physical discipline in addition to paddling, impeding their rights to education.⁶ Corporal punishment is defined as “any punishment in which physical force is used and intended to cause some degree of pain or discomfort.”⁷ According to interviews conducted for this report, students with disabilities have been subjected to a wide range of corporal punishment, including hitting children with rulers; pinching or striking very young children; grabbing children with enough force to bruise; throwing children to the floor; and bruising or otherwise injuring children in the course of restraint.

Under human rights law, physical force may only be used against students where it is absolutely necessary to protect a child or others, and even then the principle of the minimum necessary amount of force for the shortest period of time must apply. Physical

⁴ The White House, “Remarks by the President on Signing of UN Convention on the Rights of Persons with Disabilities Proclamation,” July 24, 2009, http://www.whitehouse.gov/the_press_office/Remarks-by-the-President-on-Rights-of-Persons-with-Disabilities-Proclamation-Signing/ (accessed July 31, 2009).

⁵ This report does not examine corporal punishment in residential treatment facilities or other psychiatric facilities.

⁶ Some physical force is permitted under international law, but only where it is needed to protect “a child or others” and not to punish. “The principle of the minimum necessary use of force for the shortest necessary period of time must always apply.” UN Committee on the Rights of the Child, General Comment No. 8, *The Right of the Child to Protection from Corporal Punishment and Other Cruel or Degrading Forms of Punishment*, UN Doc. CRC/C/GC/8 (2006), para. 15.

⁷ UN Committee on the Rights of the Child, General Comment No. 8, para. 11.

force with intent to punish is never acceptable, and is especially abusive when used to punish students for conduct related to their disabilities.

Lasting Injuries and Barriers to Education

Corporal punishment can cause deep bruising or other lasting physical or mental injury. Furthermore, it creates a violent, degrading school environment in which all students—and particularly students with disabilities—may struggle to succeed. Research indicates that corporal punishment is rarely effective in teaching students to refrain from violent behavior, and that it causes students to become disengaged and reluctant to learn.

The Society for Adolescent Medicine has documented serious medical consequences resulting from corporal punishment, including severe muscle injury, extensive blood clotting (hematomas), whiplash damage, and hemorrhaging. Many children whose stories are documented in this report sustained serious injuries from paddling. Deena S.’s middle school son, who has attention deficit hyperactivity disorder (ADHD), was badly bruised from paddling: “They were deep bruises. Not marks. They measured three inches by four inches. In the center of the bruises it was kind of clear. They ended up turning real dark. This wasn’t just a little red mark, this was almost black.”⁸

Some students were taken to hospital after severe episodes of corporal punishment. Theresa E.’s five-year-old granddaughter with autism was physically punished at her Georgia elementary school: “You could see the bruising. Her whole arm was swollen by the time she got to the emergency room. Her right arm. The doctor said it looked like she’d been hit by a baseball bat or had been in a motorcycle accident.”⁹

All corporal punishment, whether or not it causes significant physical injury, violates students’ rights to physical integrity, and prevents students from attaining a decent education. As a consequence of the helplessness and humiliation felt by those who experience corporal punishment, some students become angry or depressed. Several parents of students with disabilities reported that their children became more aggressive, more likely to lash out at peers or family members, and more likely to injure themselves. Students may become withdrawn and deeply reluctant to go back to school.

⁸ ACLU telephone interview with Deena S., Texas, May 22, 2009.

⁹ ACLU telephone interview with Theresa E., Georgia, March 5, 2009.

Aggravating Medical Conditions for Students with Disabilities

Corporal punishment, which is never appropriate for any child, is particularly abusive for students with disabilities whose medical conditions may be worsened as a consequence of the punishment itself. For instance, one advocate we interviewed drew a connection between pain crises and paddling in her students with sickle cell anemia:¹⁰ “any kind of mental or physical stress can be a pain trigger for these students for a pain crisis ... If they’re paddled, it’s an immediate trigger for a possible moderate to severe pain crisis.”¹¹

Among families we interviewed, episodes of corporal punishment directly preceded children’s regression in developmental terms, particularly for children with autism. Several students with autism became self-injurious following episodes of corporal punishment, though they had previously not exhibited self-injurious behavior; others became more aggressive. Anna M.’s seven-year-old son with an autism disorder who was physically punished now “struggles with anger. Right after the incidents, he’d have anger explosions. I still can’t come up behind him and hug him. It’s changed him.”¹²

Punishment for Disabilities

According to our interviews, students with disabilities were routinely punished for behaviors related to their disabilities, such as Tourette Syndrome or obsessive compulsive disorder (OCD). Students with autism are particularly likely to be punished for behaviors common to their condition, stemming from difficulties with appropriate social behavior. For instance, Landon, the six-year-old with autism in Mississippi, was punished because he had a melt-down when his routine was changed. Educators may not have access to sufficient training on the nature of their students’ disabilities or on best practices for responding to behavior connected to those disabilities. As Karen W., an Arkansas mother, noted of her son’s school: “not one person in that whole building had one day’s training in autism.”¹³

Students with disabilities—like all students—can thrive with appropriate discipline. When students with disabilities are beaten for the consequences of their disabilities, their rights to education and non-discrimination are violated. Students with disabilities face considerable barriers to success as it is; corporal punishment makes those barriers even higher.

¹⁰ Sickle cell anemia is a condition which is characterized by pain crises, or “unpredictable episodes of severe and sometimes excruciating pain.” Section on Hematology/Oncology, Committee on Genetics, “Health Supervision for Children With Sickle Cell Disease,” *Pediatrics*, vol. 109, March 2002, pp.526-535.

¹¹ ACLU telephone interview with Jennifer Parker, advocate for children with sickle cell anemia, Tennessee, March 10, 2009.

¹² ACLU telephone interview with Anna M., Florida, March 9, 2009.

¹³ ACLU telephone interview with Karen W., Arkansas, May 22, 2009 (interviewed with spouse).

Disproportionality and Lack of Information

Nationwide, students with disabilities receive corporal punishment at disproportionately high rates. In Tennessee, for example, students with disabilities are paddled at more than twice the rate of the general student population. These statistics may seem high, but they likely undercount the full extent of violence against students with disabilities; there is no mandated reporting for many types of corporal punishment that take place. Some students with disabilities may exhibit behavioral problems in the classroom, but that does not justify use of force.

Parents repeatedly voiced concerns that they were unaware of the full extent of the violence used against their children, either because the school district did not report it to them or because their children were unable to verbalize what had happened. As Karen W., the mother of an Arkansas boy with autism, commented, “it took [my son] a long time to tell me what happened. But I’m a lot more fortunate than some of these parents.”¹⁴ Where parents do not have access to information about abuse against their children, they face obstacles to protecting their children from harm.

Parents’ Inability to Protect Their Children

Parents may struggle to protect their children from violent school discipline. Parents found that school districts did not respond adequately to their complaints or requests to use more appropriate discipline with their students. “We went to war, we really did,”¹⁵ commented Karen W. After seeing their children injured in school, parents feared for their child’s physical safety. Anna M. observed, “I was afraid for his life, to be honest. He was 52 pounds, or maybe even less, at this point.”¹⁶

Ultimately, many parents felt they had no choice but to withdraw their children from public school, despite the impact on family life and the child’s education. Theresa E. explained the dilemma, “We thought [our granddaughter] needed school for socialization. I didn’t think I could home school her. Jessie’s autistic ... I’m not sure I can educate her.”¹⁷ Some parents were forced to stop working, like May R.: “I can’t even get a job ... I had to keep [my seven-year-old daughter with autism] safe. She had taken a huge downturn.”¹⁸

¹⁴ Ibid.

¹⁵ Ibid.

¹⁶ ACLU telephone interview with Anna M., Florida, March 9, 2009.

¹⁷ ACLU telephone interview with Theresa E., Georgia, March 5, 2009.

¹⁸ ACLU telephone interview with May R. (pseudonym), Florida, April 16, 2009.

Many parents were left with a lingering sense of guilt and responsibility. As Jacquelyn K. said of Landon, “I can imagine my little child was just screaming and hollering, and I wasn’t there to help him.”¹⁹ Karen W. echoed this sentiment: “Oh, the guilt I live with.... I blame myself for my ignorance. I didn’t touch him or hurt him ... but if parents knew that schools do this, the kids wouldn’t be hurt.”²⁰

Best Practices and Success Stories

Though children are protected from corporal punishment in most US juvenile detention centers and mental health facilities, they are still vulnerable in US public schools. Yet there are positive, nonviolent approaches to school discipline that have been proven to lead to safe environments in which children can learn. Positive behavioral supports (PBS) teach children why what they did was wrong and give them tools to improve their behavior. School districts across the US have implemented PBS, and have seen substantial declines in disciplinary referrals and improvements in school-wide safety.

International instruments, including the UN Convention on the Rights of the Child, the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the UN Convention on the Rights of Persons with Disabilities, prohibit the use of cruel, inhuman, or degrading treatment, regardless of circumstance. Corporal punishment also violates other human rights, including the right to security of person and the right to non-discrimination. Corporal punishment infringes on the right to education. The UN Committee on Economic, Social and Cultural Rights, in General Comment 13 (on the right to education), not only describes corporal punishment as “inconsistent with the fundamental guiding principle of human rights law” but “welcomes initiatives taken by some States parties which actively encourage the schools to introduce ‘positive,’ non-violent approaches to school discipline.”²¹

Positive behavioral supports allow for individualized responses that can be particularly effective for students with disabilities. One teacher in Mississippi mentioned her success stories, noting that the staff “would talk to [students with disabilities] about the way they were behaving, and set up incentives and goals to see if they could change their behavior.

¹⁹ ACLU telephone interview with Jacquelyn K., Mississippi, April 14, 2009.

²⁰ ACLU telephone interview with Karen W., Arkansas, May 22, 2009.

²¹ UN Committee on Economic, Social and Cultural Rights, General Comment 13, Article 13, The Right to Education, UN Doc. E/C.12/1999/10 (1999), para. 41.

This was a successful way to intervene.”²² Some parents reported happily that their children were thriving in settings with positive behavioral supports. Karen W. said of her son with autism, “He’s now on the honor roll, straight A student, in a mainstream school. This is remarkable. A year ago or so, they were saying he could never, ever go back to public school.”²³

US federal and state governments can uphold children’s rights by banning corporal punishment and implementing PBS. With appropriate funding, training, and support, educators can implement discipline systems that respond to the fundamental needs of even the most vulnerable students, thus helping produce environments in which every student can maximize his academic potential.

²² Human Rights Watch telephone interview with Charlotte M. (pseudonym), former teacher in the Mississippi Delta, New Haven, Connecticut, November 16, 2007.

²³ ACLU telephone interview with Karen W., Arkansas, May 22, 2009.

II. Recommendations

The ACLU and Human Rights Watch recommend a complete prohibition on the use of corporal punishment against all students in US schools.²⁴ Until that point, we recommend that federal and state governments and/or all relevant school districts implement an immediate moratorium on the use of corporal punishment against students with disabilities.

To the US Congress

- Prohibit the use of corporal punishment against students with disabilities, as defined by the Individuals with Disabilities Education Act and Section 504 of the Rehabilitation Act of 1973. Define corporal punishment as any punishment in which physical force, however light, is used with intent to discipline.
- In particular, immediately prohibit the use of corporal punishment to discipline students for behaviors that are the consequences of their disabilities.
- Prohibit the use of prone or “face-down” restraint in schools.
- Increase funding to states and school districts to train all staff, including teachers and para-professionals, on effective methods of school discipline (including positive behavioral supports), and to provide for behavioral analysts and counseling staff to improve the delivery of appropriate discipline to students with disabilities.
- Support measures to improve school discipline through the implementation of positive behavior systems by passing the Positive Behavior for Safe and Effective Schools Act (HR 2597).
- Increase funding to Protection and Advocacy programs to provide parents with resources to protect their children, and to investigate allegations of abuse or neglect in schools.
- (To the Senate): Ratify the Convention on the Rights of the Child and the Convention on the Rights of Persons with Disabilities without reservation.

²⁴ Human Rights Watch/ACLU, *A Violent Education*, Conclusion and Recommendations.

To the President of the United States

- Propose and urge Congress to ban corporal punishment against students with disabilities in US schools.
- Submit the Convention on the Rights of Persons with Disabilities and the Convention on the Rights of the Child to the US Senate for its consent to ratification.

To the US Department of Education, Office for Civil Rights

- Revise and expand the collection of data on corporal punishment:
 - Direct all school districts in all states to report any violence used by a staff member against a student.
 - Mandate that school districts report all instances of restraint, and document whether that restraint was used to respond to the immediate needs of safety for the child or others, or whether it was used in order to discipline.
- Promulgate national standards limiting the use of force in public schools. Mandate that force be used only when needed to protect a child or others, and that the principle of the minimum necessary use of force for the shortest necessary period of time must always apply.
- Use the Office’s investigative mandate to:
 - pursue vigorously individual complaints of corporal punishment that allege violations of the prohibition on discrimination in Section 504 of the Rehabilitation Act of 1973; and
 - relying on statistical data and other sources, initiate and complete compliance reviews for school districts that demonstrate systemic issues in disparate rates of corporal punishment for students with disabilities.

To State Legislatures

- Prohibit the use of corporal punishment against students with disabilities. Define corporal punishment as any punishment in which physical force, however light, is used with intent to discipline.
- In particular, prohibit the use of corporal punishment to discipline students for behaviors that are the consequences of their disabilities.
- Prohibit the use of prone or “face-down” restraint in schools.

- Repeal or modify existing legislation that grants educators who use corporal punishment immunity from civil lawsuits or criminal prosecution; permit civil lawsuits and criminal prosecution for assault in schools.
- Enact legislation requiring school boards to incorporate positive behavior systems into individual school district discipline policies and codes of conduct.
- Increase funding to school districts to train all staff, including teachers and para-professionals, on effective methods of school discipline (including positive behavioral supports), and to provide for behavioral analysts and counseling staff to improve the delivery of appropriate discipline to students with disabilities.

To State Governors and Departments of Education

- Propose and implement an immediate and complete ban on the use of corporal punishment against students with disabilities. Define corporal punishment as any punishment in which physical force, however light, is used with intent to discipline.
- Promulgate state-wide standards limiting the use of force in public schools. Mandate that force be used only when needed to protect a child or others, and that the principle of the minimum necessary use of force for the shortest necessary period of time must always apply.
- Promulgate state-wide standards requiring training of all staff, including teachers and para-professionals, on effective methods of school discipline (including positive behavioral supports). Ensure that staff are trained on the strict limits on permitted use of force in exceptional situations.
- Implement a statistical review system that tracks every instance of corporal punishment of any kind in public schools. Authorities should be required to record each instance of force used against a child, including use of restraint.

To School Boards, Superintendents, Principals, and Teachers

- Revise discipline policies to ensure that students with disabilities do not receive corporal punishment.
- Institute alternative discipline systems such as positive behavioral support systems.
- Increase training programs to ensure that all staff, including teachers and para-professionals, can use effective methods of school discipline (including positive behavioral supports). Ensure that all staff members are conscious of best practices in responding to their students' individualized needs, including by reaching out to

local medical professionals who can assist in training. Ensure that staff are trained on the strict limits on permitted use of force in exceptional situations.

- Provide for behavioral analysts and counseling staff to improve the delivery of appropriate discipline to students with disabilities.
- Better utilize professionally conducted behavioral assessments for students with disabilities; ensure that those assessments include an evaluation of what individualized, positive interventions can be used to provide effective incentives for appropriate conduct.