

# Corporal punishment of children in the USA

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Child population 73,169,000 (UNICEF, 2015)



GLOBAL INITIATIVE TO

**End All Corporal  
Punishment of Children**

## Summary of necessary legal reform to achieve full prohibition

Prohibition is still to be achieved in the home, some alternative care settings, some day care, some schools and some penal institutions.

State laws confirm the right of parents to inflict physical punishment on their children and legal provisions against violence and abuse are not interpreted as prohibiting all corporal punishment in childrearing. The near universal acceptance of corporal punishment in “disciplining” children necessitates a clear statement in law that all corporal punishment, however “light”, is prohibited and the repeal of all legal defences for its use.

*Alternative care settings* – Prohibition should be enacted in legislation applicable to all alternative care settings (foster care, institutions, emergency care, places of safety, etc) throughout the USA.

*Day care* – Corporal punishment should be prohibited in all early childhood care (crèches, preschools, kindergartens, family centres, etc) and all day care for older children (day centres, after school childcare, childminding, etc) throughout the USA.

*Schools* – Legislation should prohibit corporal punishment in all schools, public and private, throughout the USA.

*Penal institution* – Prohibition should be enacted of corporal punishment as a disciplinary measure in all institutions accommodating children in conflict with the law throughout the USA.

## Current legality of corporal punishment

### Home

Corporal punishment is lawful in the home in all states. State laws confirm the right of parents to inflict physical punishment on their children and legal provisions against violence and abuse are not interpreted as prohibiting all corporal punishment in childrearing. In Minnesota, examination of several laws led some legal experts to conclude that corporal punishment is not permitted in that state, but according to the legislation a parent, legal guardian or caretaker may use reasonable force to restrain or correct a child (Sec. 609.379. [Cr.]) and the Minnesota Court of Appeal has overturned convictions for physical abuse involving corporal punishment.

In June 2015, the Massachusetts Supreme Judicial Court, in a case review concerning corporal punishment of a child by her parent, issued a judgment overturning the original conviction for assault and battery and including “guidelines” for the administration of corporal punishment.<sup>1</sup> The ruling set out the following “framework”: “... we hold that a parent or guardian may not be subjected to criminal liability for the use of force against a minor child under the care and supervision of the parent or guardian, provided that (1) the force used against the minor child is reasonable; (2) the force is reasonably related to the purpose of safeguarding or promoting the welfare of the minor, including the prevention or punishment of the minor’s misconduct; and (3) the force used neither causes, nor creates a substantial risk of causing, physical harm (beyond fleeting pain or minor, transient marks), gross degradation, or severe mental distress. By requiring that the force be reasonable and reasonably related to a legitimate purpose, this approach effectively balances respect for parental decisions regarding the care and upbringing of minor children with the Commonwealth’s compelling interest in protecting children against abuse. By additionally specifying certain types of force that are invariably unreasonable, this approach clarifies the meaning of the reasonableness standard and provides guidance to courts and parents.” In the same state, a Bill is under discussion aimed at encouraging parents and caregivers to refrain from using corporal punishment (Bill H3647). The Bill was discharged in September 2016 to the Committee on House Rules.

In August 2017, the Supreme Court of Utah<sup>2</sup> reversed the decision of a juvenile court which had found that parents that had spanked their children using a belt were guilty of abuse under the Utah Code. The Supreme Court highlighted that the juvenile court had failed to prove that the spanking had caused “harm” to the children as defined in the Utah Code (“physical, emotional, or developmental injury or damage”), instead stipulating harm as a natural consequence to the spanking. The Supreme Court also objected to the juvenile court’s adoption of the *per se* rule that “hitting a child with a belt or strap or another object is abuse” as too broad and potentially applying to inoffensive situations such as “throwing a pillow or a rolled up pair of socks at a child”, or “hitting a child with a Nerf sword playfully as part of a game”.

The American Academy of Pediatrics (AAP) published a policy statement in November 2018 calling for the education of parents on positive and effective parenting strategies and the elimination of physical and humiliating punishment, including verbal abuse<sup>3</sup>. The American Psychological Association (APA) released a similar statement in February 2019.<sup>4</sup>

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<sup>1</sup> *Commonwealth vs Jean G. Dorvil*, SJC-11738 (2015)

<sup>2</sup> *B.T. and S.T. v State of Utah*, 2017 UT 44 (2017)

<sup>3</sup> Sege RD, Siegel BS, AAP Council on Child Abuse and Neglect, AAP Committee on Psychosocial Aspects of Child and Family Health, *Effective Discipline to Raise Healthy Children* (2018)

<sup>4</sup> 15 February 2019, American Psychological Association, *Resolution on Physical Discipline of Children By Parents*

## **Alternative care settings**

Corporal punishment is prohibited in all alternative care settings in 40 states and the District of Columbia (see state-by-state analysis below).

## **Day care**

Corporal punishment is prohibited in all early childhood care and in day care for older children in 36 states (see state-by-state analysis below).

## **Schools**

There is no prohibition at federal level of corporal punishment in all public and private schools. In 1977, the US Supreme Court found that the Eighth Amendment, which prohibits cruel and unusual punishment, did not apply to school students, and that teachers could punish children without parental permission.<sup>5</sup>

Corporal punishment is unlawful in public schools in 31 states and the District of Columbia, though in some of these there is no explicit prohibition. Corporal punishment is unlawful in public and private schools in Iowa and New Jersey. It is lawful in public and private schools in 19 states.

The Ending Corporal Punishment in Schools Bill 2015 (H. R. 2268) would have prohibited all corporal punishment, defined as “paddling, spanking, or other forms of physical punishment, however light, imposed upon a student” (s12); it was sent to Committee stage on 12 May 2015 but failed to progress through to enactment. The Bill was reintroduced in the 115<sup>th</sup> Congress as the Ending Corporal Punishment in Schools Bill 2017 (H.R. 160) but also failed to progress. The Ending Corporal Punishment in Schools Bill 2019 (H.R. 727) was again introduced in January 2019 and referred to the House Committee on Education and Labor.

## **Penal institutions**

The 1977 Supreme Court ruling (see above) stated that the Eighth Amendment protected convicted criminals from corporal punishment. However, we have been able to identify only around 30 states which have prohibited by law all corporal punishment as a disciplinary measure in juvenile detention. In many others, policy states that corporal punishment should not be used but this has not been confirmed in legislation. The American Correctional Association’s standards for juvenile detention facilities call for “written policy, procedure, and practice [that] protect juveniles from personal abuse, corporal punishment, personal injury, disease, property damage, and harassment”. The comment to the standard states: “In situations where physical force or disciplinary detention is required, only the least drastic means necessary to secure order or control should be used.” The National Juvenile Detention Association has passed a resolution which “opposes any policy or related procedure which advocates, promotes, or authorizes the use of offensive physical intervention techniques that allows staff to hit, kick, or strike juveniles”. The Detainee Treatment Act 2005 prohibits cruel, inhuman or degrading treatment and punishment of any person under the physical control of the state.

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<sup>5</sup> *Ingraham v Wright*, 430 U.S. 651 (1977)

## **Sentence for crime**

Corporal punishment is unlawful as a sentence for crime. There is no provision for judicial corporal punishment in federal or state law.

## **Universal Periodic Review of the USA's human rights record**

The US was examined in the first cycle of the Universal Periodic Review in 2010 (session 9). No recommendations were made specifically concerning corporal punishment of children. However, recommendations were made to ratify and incorporate into law the UN Convention on the Rights of the Child and to withdraw the reservation to the International Covenant on Civil and Political Rights, and the Government accepted these recommendations.<sup>6</sup>

Examination in the second cycle took place in 2015 (session 22). In its national report, the Government noted efforts to address “disproportionate” discipline of African-American students but did not refer to ending all corporal punishment. During the review:<sup>7</sup>

“Prohibit corporal punishment of children in all settings, including the home and schools, and ensure that the United States encourages non-violent forms of discipline as alternatives to corporal punishment (Liechtenstein)”

The Government accepted only the part of the recommendation concerning the promotion of non-violent discipline, stating: “We support this recommendation insofar as it encourages non-violent forms of discipline. Excessive or arbitrary corporal punishment is prohibited under our Constitution, and we take effective measures to help ensure non-discrimination in school discipline policies and practices.”<sup>8</sup> The Government again accepted recommendations to ratify the Convention on the Rights of the Child.<sup>9</sup>

## **Recommendations by human rights treaty bodies**

**Note:** The USA has signed but not ratified the UN Convention on the Rights of the Child. In ratifying the International Covenant on Civil and Political Rights, the US entered a reservation stating that “the United States considers itself bound by article 7 to the extent that ‘cruel, inhuman or degrading treatment or punishment’ means the cruel and unusual treatment or punishment prohibited by the Fifth, Eighth, and/or Fourteenth Amendments to the Constitution of the United States”.

### ***Human Rights Committee***

([April 2014], CCPR/C/USA/CO/4 Advance Unedited Version, Concluding observations on fourth report, para. 17)

“The Committee is concerned about the use of corporal punishment of children in schools, penal institutions, the home, and all forms of child care at federal, state and local levels. It is also concerned

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<sup>6</sup> 4 January 2011, A/HRC/16/11, Report of the Working Group, paras. 92(1)-(11), 92(13)-(25), 92(27), 92(34), 92(37)-(45) and 92(47)-(49)

<sup>7</sup> 20 July 2015, A/HRC/30/12, Report of the working group, para. 176(265)

<sup>8</sup> 14 September 2015, A/HRC/30/12/Add.1, Report of the working group: Addendum, para. 18

<sup>9</sup> 1 October 2015, Future A/HRC/30/2 Advance unedited version, Draft report of the Human Rights Council on its 30th session, para. 226

about the increasing criminalization of students to tackle disciplinary issues arising in schools (arts. 7, 10, and 24).

The State party should take practical steps, including through legislative measures where appropriate, to put an end to corporal punishment in all settings. It should encourage non-violent forms of discipline as alternatives to corporal punishment and should conduct public information campaigns to raise awareness about its harmful effects. The State party should also promote the use of alternatives to the application of criminal law to address disciplinary issues in schools.”

## **Prevalence/attitudinal research in the last ten years**

As part of YouGov Omnibus, 7,551 US adults were questioned in September 2018. The results, which were weighted to be representative of the US population, suggest 37% of Americans think spanking is an effective form of punishment, while 37% say it is ineffective. Men (45%) are considerably more likely than women (29%) to say that spanking is an effective way to punish a child. Americans aged 45-54 years are the most likely (43%) to say spanking is effective, compared to only 26% of people aged 18-24. Regionally, people in the south are most likely to say that spanking is effective, at 44%, compared to 37% of the midwest, 34% of the west, and 26% of the northeast.

(“Most women think spanking is ineffective, but many men disagree” YouGov, 18 September 2018 <https://today.yougov.com/topics/education/articles-reports/2018/09/18/spanking-paddling-discipline-children>)

A national survey of parents conducted in 2015 involving 10 in-depth discussion groups and an internet survey found that a quarter of parents with children under 5 spank their children several times a week or more; about a fifth spank their children habitually, while 17% hit their children using objects like a belt or a clothes hanger. More than 70% of parents think discipline is the most difficult part of bringing up children. Almost a third (30%) of all parents say “I spank even though I don’t feel okay about it”; 69% of parents say that if they knew more positive parenting strategies they would use them.

(ZERO TO THREE (2016), *Tuning In: Parents of Young Children Tell Us What They Think, Know and Need*, Washington: ZERO TO THREE)

According to Education Week Research Center analyses of data from the U.S. Department of Education, more than 109,000 students were paddled, swatted or otherwise physically punished in US classrooms in 2013-14. Students experienced corporal punishment in 21 states and more than 4,000 schools nationwide. Mississippi physically disciplined the most students (more than half of students attend schools that use paddling and other physical discipline) followed by Texas, Alabama, Mississippi, Arkansas, Georgia, Tennessee, and Oklahoma. Black students are disproportionately likely to experience physical discipline, making up 22% of overall enrollment in schools using corporal punishment, but 38% of students receiving this form of discipline. By contrast, white students comprise 60% of total enrollment, but just 50% of students disciplined using physical punishment. Black girls were 2.9 times more likely to be physically disciplined than white girls. Students with disabilities also faced disproportionate rates of corporal punishment.

(Reported in “Corporal Punishment Use Found in Schools in 21 States”, *Education Week*, 23 August 2016, <http://www.edweek.org/ew/articles/2016/08/23/corporal-punishment-use-found-in-schools-in.html>)

In the 2015-16 school year, Georgia school districts reported paddling nearly 6,000 students including 991 with disabilities.

(Reported in “New state data: Nearly 6,000 students paddled in Georgia schools”, *AJC*, 5 August 2016, [www.ajc.com/news/news/local-education/new-state-data-nearly-6000-students-paddled-in-geo/nr96K](http://www.ajc.com/news/news/local-education/new-state-data-nearly-6000-students-paddled-in-geo/nr96K))

A review of the data provided to the Department of Education's Office for Civil Rights for the 2013-14 and 2015-16 school years found students with disabilities were paddled more often than the rest of the student population in at least 27 Northeast Tennessee schools in six districts. In the year 2015-16, the disparity was greatest in McPheeter's Bend Elementary where 20% of students with disabilities received corporal punishment, compared to just 1.35% of those without disabilities. Region wide, the use of corporal punishment for students with disabilities was found to have reduced from 84 instances during the 2013-2014 school year to 52 during 2015-2016.

(Reported in "Children with disabilities paddled at a higher rate at 27 area schools", *WHJL*, 12 July 2017, <http://wjhl.com/2017/07/10/children-with-disabilities-paddled-at-a-higher-rate-at-27-area-schools/>)

Using U.S. Department of Education data from 2011-2012, The Washington Post reported that while 19 states across America still permit school corporal punishment, four southern states account for nearly 60% of students "paddled" in public schools: Mississippi (18.73%), Texas (17.13%), Alabama (16.34%) and Georgia (7.36%). It also found that on average, a child is hit in a U.S. public school once every 30 seconds, and that African American students constitute about 16% of all public school students but 35% of those who receive corporal punishment.

(Reported in "In this part of the United States, principals still legally hit students", *The Washington Post*, 19 October 2015, [www.washingtonpost.com/news/wonkblog/wp/2015/10/19/in-this-part-of-the-united-states-principals-still-legally-hit-students/](http://www.washingtonpost.com/news/wonkblog/wp/2015/10/19/in-this-part-of-the-united-states-principals-still-legally-hit-students/))

Corporal punishment is on the decline in Kentucky schools, according to data from the Kentucky Youth Advocates "Kids Count" data centre: incidents of "paddling" have fallen by almost half in five years, from 1,569 incidents in 2009 to 823 in 2014.

(Reported in "Corporal punishment's decline shows changing culture in schools", *Bowling Green Daily News*, 24 September 2015, [www.bgdailynews.com/news/corporal-punishment-s-decline-shows-changing-culture-in-schools/article\\_5213995d-58ff-5e00-be4f-77dc0d810639.html](http://www.bgdailynews.com/news/corporal-punishment-s-decline-shows-changing-culture-in-schools/article_5213995d-58ff-5e00-be4f-77dc0d810639.html))

In a poll of a nationally representative sample of more than 4,000 adults in the USA, 68% agreed and 23% disagreed that "corporal punishment should be allowed at home, as long as it isn't excessive". More than a third (35%) agreed that "corporal punishment should be allowed at school, as long as it isn't excessive"; 56% disagreed. Three-quarters said they had been physically punished as a child and 39% that they had inflicted corporal punishment on a child.

(Ipsos (2014), *Ipsos Poll Conducted for Reuters: Corporal Punishment Topline 10.06.2014*, Ipsos)

A study that recorded audio of 33 mothers interacting with their 2-5 year old children found that corporal punishment was frequently used and the rate far exceeded previous findings: e.g. the median rate of spanking in the sample was 18 times per week. In 73% of cases, children repeated the behaviours for which they had been punished within 10 minutes of being hit. The recordings revealed that corporal punishment was frequently not used in ways that its advocates recommend (as a last resort, not in anger, selectively and infrequently).

(Holden, G. W. et al (2014), "Eavesdropping on the Family: A Pilot Investigation of Corporal Punishment in the Home", *Journal of Family Psychology*, advance online publication, 14 April 2014)

In a survey of 2,286 adults carried out in 2013, 81% said it was sometimes appropriate for parents to "spank" their children and 19% said it was never appropriate. This represented a slight decline in approval of spanking compared to a similar poll in 1995, when 87% of respondents said it was sometimes appropriate. Two thirds (67%) of parents surveyed said they had spanked their child, compared to 80% in 1995. Almost nine in ten respondents (86%) said they were spanked as a child, the same as in 1995. Nearly three quarters (75%) of those who were spanked as children had spanked their own children, compared to 25% of those who were not spanked as a child.

(Reported by *Harris Interactive*, 26 September 2013)

An analysis of data on corporal punishment from the Office of Civil Rights, relating to the 2009-2010 school year, revealed that on average, 838 children experience corporal punishment in public schools every day, the equivalent of one every 30 seconds. Black children were nearly two-and-a-half times more likely to experience corporal punishment than White children, and nearly eight times more likely than Hispanic children.

(Children's Defense Fund (2014), *The State of America's Children 2014*, Washington DC: Children's Defense Fund)

According to statistics from the Florida Department of Education, just under 3,000 children in Florida experienced corporal punishment at school in 2011-2012.

(Reported in *Penascola News Journal*, 5 December 2013)

An open records request found that students in schools in Mississippi were physically punished, typically with a wooden paddle, 39,000 times during the 2011-2012 school year, according to reports by school districts. Physical punishment was inflicted on students in 99 of the state's 151 school districts.

(Reported in *Clarion Ledger*, 12 April 2013)

A 2013 analysis of the General Social Survey 2010 by the Child Trends Data Bank found that female college graduates were less likely than male college graduates to think "spanking" is sometimes necessary – 56% of females compared to 71% of males. The same was true of people educated to high school level – 69% of females thought spanking is sometimes necessary compared to 80% of males. Of people with less than a high school education, 67% of females thought spanking is sometimes necessary, compared to 63% of males.

(Reported in *InForum*, 13 January 2013)

Data from the Georgia Department of Education, gained by a 2013 open records request, revealed that in the 2011-2012 school year at least 20,011 cases of school corporal punishment were inflicted on at least 11,554 students. Of these, 1,625 (14%) had a disability and 9,791 (85%) did not have a disability; in 1% of cases, whether the student had a disability was not recorded.

(Georgia Department of Education (2012), *Breakouts of Student/Discipline Incident Information, System Level, 2011-12 Student Record Data Collection System (SR 2012)*)

A 2012 investigation by the *Tampa Bay Times* into more than 30 private Christian children's homes in Florida found that corporal punishment was very common in some of the homes. Punishments included children being beaten, pinned to the ground, choked, handcuffed, forced to maintain uncomfortable positions, forced to exercise, threatened and humiliated.

(Reported in *Tampa Bay Times*, 28 October 2012)

A study in which researchers anonymously observed 106 "discipline interactions" between children aged 3-5 and their caregivers in public places found that in 23% of the interactions, the children were physically punished, e.g. through having their arms pulled, or being pinched, slapped or spanked.

(Reported in *All Michigan*, 5 August 2012)

A 2012 open records request revealed that in the 2010-2011 school year, 21,792 cases of school corporal punishment were recorded in Georgia.

(Reported in *11alive.com*, 6 February 2012)

The Civil Rights Data Collection, a representative sample covering approximately 85% of school students, provided an analysis of data on school "discipline" from the school year 2009-2010. It found that students with disabilities were much more likely to experience physical restraint than students without disabilities: 12% of the sample had a disability but nearly 70% of students experiencing

physical restraint in school had a disability. Hispanic students without disabilities were more likely to experience seclusion than other students without disabilities: 24% of students without disabilities were Hispanic, but 42% of students without disabilities who experienced seclusion were Hispanic. African-American students with disabilities were more likely to experience mechanical restraint than other students with disabilities: 21% of students with disabilities were African-American, but 44% of students with disabilities who experienced mechanical restraint were African-American.

(Office for Civil Rights (2012), *Civil Rights Data Collection March 2012*, Washington DC: Office for Civil Rights)

According to a report by the North Carolina Department of Public Instruction, more than 600 students experienced corporal punishment once in North Carolina in 2010-2011, and over 150 students experienced it at least twice. In total, there were 891 uses of corporal punishment by 17 different school districts in 2010-2011. Children with disabilities represented 8% of the student population, but 22% of those experiencing corporal punishment. American Indian students comprised less than 2% of the student population, but experienced about 35% of the corporal punishment. More than 90% of the corporal punishment occurred in Robeson County, where American Indians represented 48% of the student population but 81% of students experiencing corporal punishment.

(Reported in *Star News Online*, 3 February 2012, [www.starnewsonline.com](http://www.starnewsonline.com); *Charlotte Observer*, 3 April 2012)

A map created by Southern Echo in 2012 documents recorded incidents of school corporal punishment in 108 of the 152 school districts in Mississippi. Overall, 67 districts reported a decrease in the number of incidents of corporal punishment in the 2010-2011 school year compared to the 2009-2010 school year and 33 districts reported an increase in the number of incidents of corporal punishment.

(Reported in *Southern Echo*, 19 January 2012, <http://southernecho.org/s/?p=2439>)

In a survey in North Carolina that involved nearly 3,000 mothers of children aged 3-27 months, 30% said they had spanked their child in the past year. Eleven per cent of those who had spanked their child in the past year had done so more than 20 times. Five per cent of mothers of 3 month olds said they had spanked them, and more than 70% of mothers of 23 month olds. With every month of age, a child had 27% increased odds of being spanked.

(Zolotor, A. J. et al. (2011), "The emergence of spanking among a representative sample of children under 2 years of age in North Carolina", *Frontiers in Child and Neurodevelopmental Psychiatry*, 2 (36), 1-8)

A study found that fathers of 1 year olds with depression were more likely to spank their children. Over 1,700 fathers in cities in the USA were interviewed, of whom 7% had depression; 13% of non-depressed fathers and 41% of depressed fathers reported spanking their child in the past month, making depressed fathers nearly 4 times more likely to report spanking. The study authors noted that associations between maternal depression and spanking have been reported, and that the association may be directly related to symptoms of depression such as irritability and anger.

(Davis, R. N. et al (2011), "Fathers' Depression Related to Positive and Negative Parenting Behaviors With 1-Year-Old Children", *Pediatrics*, published online March 14 2011, [www.pediatrics.org](http://www.pediatrics.org))

A 2010 report on the Judge Rotenberg Center, a residential facility and school for children and adults with mental disabilities, found that severe corporal punishment was widespread. Punishments included electric shocks, long-term restraint, food deprivation and isolation.

(Ahern, L. & Rosenthal, E. (2010), *Torture not Treatment: Electric Shock and Long-Term Restraint in the United States on Children and Adults with Disabilities at the Judge Rotenberg Center*, Mental Disability Rights International)

Almost two thirds (65%) of three year olds in a sample of nearly 2,000 families had been "spanked" by one or both parents in the previous month. The study examined the prevalence of corporal punishment and intimate partner aggression, with 49% of the families reporting both of these. In



about 15% of these families, bilateral aggression or violence between the parents was combined with a single parent spanking the child.

(Taylor C. A. et al (2010), "Use of spanking for 3-year-old children and associated intimate partner aggression or violence", *Pediatrics*, 126, 415-424)

A study of the relationship between gender and physical punishment in China, Colombia, Italy, Jordan, Kenya, Philippines, Sweden, Thailand and the US, which used interviews with around 4,000 mothers, fathers and children aged 7-10, found that in the US 38% of girls and 36% of boys had experienced "mild" corporal punishment (spanking, hitting, or slapping with a bare hand; hitting or slapping on the hand, arm, or leg; shaking; or hitting with an object), and 4% of girls and 5% of boys had experienced severe corporal punishment (hitting or slapping the child on the face, head, or ears) by someone in their household in the past month. Smaller percentages of parents believed it was necessary to use corporal punishment to bring up their child: for girls, 17% of mothers and 11% of fathers believed it was necessary; for boys, 13% of mothers and 16% of fathers.

(Lansford, J. et al (2010), "Corporal Punishment of Children in Nine Countries as a Function of Child Gender and Parent Gender", *International Journal of Pediatrics*)

The CS Mott Children's Hospital National Poll on Children's Health 2010 presented various scenarios to over 1,500 parents of 2-17 year olds and asked how likely they were to use different discipline strategies. A third said they were very likely to spank (hit with a hand) or paddle (hit with a wooden paddle) their child. More parents of young children said they were very likely to spank (30% of parents of 2-5 year olds, 24% of parents of 6 – 12 year olds and 13% of parents of 13-17 year olds), while slightly more parents of older children said they were very likely to paddle their child (8% for 2-5 year olds, 10% for 6-12 year olds, and 12% for 13-18 year olds).

(C. S. Mott Children's Hospital, *National Poll on Children's Health*, April 16 2010, 9 (4), [www.med.umich.edu/mott/npch/pdf/041510report.pdf](http://www.med.umich.edu/mott/npch/pdf/041510report.pdf))

In 2009, a study by the American Civil Liberties Union (ACLU) and Human Rights Watch looked at corporal punishment of disabled children in American schools. The report, based on data from 202 interviews with parents, students, teachers, administrators, and special education professionals, and statistics from the Office for Civil Rights at the US Department of Education, shows that disabled students experience a high rate of "paddling" (beating with a wooden paddle). Disabled students made up 18.8% of students who experienced this form of corporal punishment in schools in 2006-7, despite constituting only 13.7% of the total student population. In the states that use the most corporal punishment, students with disabilities were up to twice as likely as non-disabled students to experience this form of corporal punishment. In addition to paddling, students with disabilities were also spanked, slapped, pinched, dragged across the floor and thrown to the floor. Most instances of corporal punishment uncovered by the report were in response to minor infractions of the rules such as lateness. Students with disabilities were also punished for behaviours connected to their disabilities – e.g. students with autism were punished for rocking, spinning and other behaviours that were a direct result of their condition.

(Human Rights Watch & American Civil Liberties Union (2009), *Impairing Education: Corporal Punishment of Students with Disabilities in US Public Schools*, [www.hrw.org/node/84950](http://www.hrw.org/node/84950))

In 2009, the US Government Accountability Office reviewed legislation on restraint and disciplinary techniques used in public and private schools and examined student death and abuse from these methods over the last 20 years. It discovered hundreds of allegations of death and abuse, nearly all of which involved children with disabilities. In several cases in which these techniques were proven to result in death or serious injury, the staff involved continued to be employed as educators.

(United States Government Accountability Office (2009), *Seclusions and Restraints: Selected cases of death and abuse at public and private schools and treatment centers*, [www.gao.gov/products/GAO-09-719T](http://www.gao.gov/products/GAO-09-719T))

A joint report by Human Rights Watch and the American Civil Liberties Union published in August 2008 highlighted the extent of corporal punishment of children in schools. 181 interviews were carried out with parents, teachers, students and administrators, including interviews with 34 young people aged under 18 and 37 former students aged 18-26. The report states that, according to the Office for Civil Rights at the US Department of Education, more than 200,000 students were punished at least once in the 2006-2007 school year and notes that actual totals may well be higher. African-American students and disabled students were punished more frequently than others. The interviews focussed on Mississippi and Texas, where corporal punishment is widely used. They found that corporal punishment is used in response to a wide range of behaviours, including minor misdemeanours such as drinking in class and dress code violations. Corporal punishment usually takes the form of "paddling", or hitting a student on the buttocks and upper thighs with a wooden paddle. In several cases, this had caused serious injury.

(Human Rights Watch & American Civil Liberties Union (2008), *A Violent Education: Corporal Punishment of Children in US Schools*, [www.hrw.org/reports/2008/us0808](http://www.hrw.org/reports/2008/us0808))

## State-by-state analysis of the legality of corporal punishment in the US

### Notes on schools:

- (i) Unless noted otherwise, state level prohibitions apply only to public schools.
- (ii) Unless noted otherwise, in states in which there is no state level prohibition of corporal punishment, such punishment is permitted unless banned by local boards. In most of these states, it is up to local boards and schools to establish policies regulating the use of corporal punishment.
- (iii) Information in square brackets is unconfirmed.

State	Prohibited in the home	Prohibited in alternative care settings	Prohibited in day care	Prohibited in schools	Prohibited in penal institutions	Prohibited as sentence for crime
Alabama	NO	YES	SOME <sup>10</sup>	NO	NO <sup>11</sup>	YES
Alaska	NO	YES	YES	YES	YES	YES
Arizona	NO	YES	YES	NO	NO	YES
Arkansas	NO	SOME <sup>12</sup>	SOME <sup>13</sup>	NO	NO <sup>14</sup>	YES
California	NO	YES	YES	YES	YES	YES
Colorado	NO	YES	YES	NO	YES	YES
Connecticut	NO	[YES]	SOME <sup>15</sup>	YES <sup>16</sup>	[NO]	YES
Delaware	NO	[SOME] <sup>17</sup>	YES	YES	NO	YES
District of Columbia	NO	YES	SOME <sup>18</sup>	YES	NO <sup>19</sup>	YES
Florida	NO	YES	SOME <sup>20</sup>	NO	YES	YES
Georgia	NO	YES	YES	NO	NO <sup>21</sup>	YES
Hawaii	NO	YES	YES	YES	[YES] <sup>22</sup>	YES

<sup>10</sup> Preschool programmes operated by churches or religious non-profit schools exempt from licensing

<sup>11</sup> But policy states it should not be used

<sup>12</sup> Prohibited in group homes/institutions and foster care homes licensed by the Arkansas Department of Human Services; not prohibited in private group homes/institutions licensed by the Arkansas Child Welfare Agency Review Board; child care facilities operated by churches possibly exempt from licensing requirements

<sup>13</sup> Prohibited by licensing requirements in family day care and in day care centres; child care facilities operated by churches possibly exempt from licensing requirements

<sup>14</sup> Prohibited for adult prisoners but permitted for juveniles

<sup>15</sup> Some religious based arrangements exempt from child care licensing

<sup>16</sup> But no explicit prohibition

<sup>17</sup> Prohibited in family day care and in day care centres; in foster care, agency policy states corporal punishment should not be used but possibly no prohibition in law

<sup>18</sup> In day care centres, policy states corporal punishment should not be used but no prohibition in law; not prohibited in family day care, but prohibition proposed

<sup>19</sup> Policy states corporal punishment should not be used but no prohibition in law

<sup>20</sup> Child care facilities in church or parochial schools exempt from licensing regulations

<sup>21</sup> Policy states corporal punishment should not be used but no prohibition in law

<sup>22</sup> Prohibited in Administrative Rules 17-201-19 (2000), but this provision has been repealed and prohibition in current law unconfirmed

State	Prohibited in the home	Prohibited in alternative care settings	Prohibited in day care	Prohibited in schools	Prohibited in penal institutions	Prohibited as sentence for crime
Idaho	NO	YES	NO	NO	YES	YES
Illinois	NO	YES	SOME <sup>23</sup>	YES	YES	YES
Indiana	NO	SOME <sup>24</sup>	SOME <sup>25</sup>	NO	[NO]	YES
Iowa	NO	YES	YES	YES <sup>26</sup>	YES	YES
Kansas	NO	YES	YES	NO	YES	YES
Kentucky	NO	YES	YES	NO	YES	YES
Louisiana	NO	SOME <sup>27</sup>	SOME <sup>28</sup>	SOME <sup>29</sup>	YES	YES
Maine	NO	YES	YES	YES <sup>30</sup>	YES	YES
Maryland	NO	[SOME] <sup>31</sup>	SOME <sup>32</sup>	YES	NO <sup>33</sup>	YES
Massachusetts	NO	SOME <sup>34</sup>	YES	YES	[NO]	YES
Michigan	NO	YES	YES	YES	YES	YES
Minnesota	NO <sup>35</sup>	YES	YES	YES	[YES]	YES
Mississippi	NO	SOME <sup>36</sup>	SOME <sup>37</sup>	NO	NO	YES
Missouri	NO	[YES]	SOME <sup>38</sup>	NO <sup>39</sup>	YES	YES

<sup>23</sup> Prohibited in all settings except church-sponsored part-day child care programmes for children over 3 years of age

<sup>24</sup> Prohibited in day care centres and home foster care; not prohibited in group homes/institutions, but strongly discouraged through training and legal interpretation; prohibited in family day care by agency policy, but as at June 2005 a rule was being promulgated which would include prohibition; possibly not prohibited in unlicensed child care programmes with religious affiliation

<sup>25</sup> Prohibited in day care centres and home foster care; not prohibited in group homes/institutions, but strongly discouraged through training and legal interpretation; prohibited in family day care by agency policy, but as at June 2005 a rule was being promulgated which would include prohibition; possibly not prohibited in unlicensed child care programmes with religious affiliation

<sup>26</sup> Prohibited in public and private schools

<sup>27</sup> Prohibited in home foster care, Class A (federally funded) residential centres and emergency shelters; not prohibited in Class B residential centres

<sup>28</sup> Prohibited in Class A (federally funded) day; not prohibited in family day care and Class B day care

<sup>29</sup> Prohibited in public elementary and secondary schools against disabled students and students with attention deficit hyperactivity disorder (ADHD)

<sup>30</sup> But no explicit prohibition

<sup>31</sup> Prohibited in all state-regulated child care facilities but possibly lawful in private facilities

<sup>32</sup> Prohibited in all state-regulated child care facilities but possibly lawful in private facilities; nursery schools and child care centres operated by tax-exempt religious organisations exempt from licensing standards

<sup>33</sup> Policy states corporal punishment should not be used (information unconfirmed) but no prohibition in law

<sup>34</sup> Prohibited in group homes/institutions; discouraged in home foster care through training and legal interpretation but no prohibition in law

<sup>35</sup> Examination of several laws of Minnesota has led some legal experts to conclude that corporal punishment is not permitted, but according to the legislation, a parent/legal guardian/caretaker can use reasonable force to restrain or correct a child (Sec. 609.379.[Cr.]

<sup>36</sup> Prohibited in home foster care and licensed group homes/institutions; not prohibited in unlicensed group homes/institutions

<sup>37</sup> Prohibited in family day care and day care centres

<sup>38</sup> Child care facilities of religious organisations exempt from licensing

<sup>39</sup> Bill which would prohibit under discussion (2014)

State	Prohibited in the home	Prohibited in alternative care settings	Prohibited in day care	Prohibited in schools	Prohibited in penal institutions	Prohibited as sentence for crime
Montana	NO	SOME <sup>40</sup>	[YES]	YES	YES	YES
Nebraska	NO	YES	YES	YES	YES	YES
Nevada	NO	YES	YES	YES	YES	YES
New Hampshire	NO	YES	YES	YES <sup>41</sup>	[NO]	YES
New Jersey	NO	YES	YES	YES <sup>42</sup>	YES	YES
New Mexico	NO	YES	YES	YES	YES	YES
New York	NO	YES	YES	YES	[YES]	YES
North Carolina	NO	YES	SOME <sup>43</sup>	NO <sup>44</sup>	YES	YES
North Dakota	NO	YES	YES	YES	NO <sup>45</sup>	YES
Ohio	NO	YES	YES	YES	YES	YES
Oklahoma	NO <sup>46</sup>	YES	YES	SOME <sup>47</sup>	YES	YES
Oregon	NO	YES	YES	YES	YES	YES
Pennsylvania	NO	YES	YES	YES	[YES]	YES
Rhode Island	NO	YES	YES	YES	???	YES
South Carolina	NO	YES	NO	NO	[NO] <sup>48</sup>	YES
South Dakota	NO	YES	YES	YES <sup>49</sup>	[YES]	YES
Tennessee	NO	SOME <sup>50</sup>	SOME <sup>51</sup>	SOME <sup>52</sup>	NO <sup>53</sup>	YES

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<sup>40</sup> In home foster care prohibited in agency policy and law states that foster parents may not use “unusual, severe, cruel, capricious, humiliating or unnecessary punishment” and foster parents must show evidence of being able to care “without recourse to physical punishment”, but as at June 2005 regulation carrying a more explicit prohibition was being promulgated

<sup>41</sup> Considered unlawful but no explicit prohibition and law allows the use of force for the maintenance of discipline

<sup>42</sup> Prohibited in public and private schools

<sup>43</sup> Prohibited in family day care and in licensed day care centres; permitted in religious-sponsored day care centres; religious child care facilities, including summer day camps, exempt from licensing

<sup>44</sup> Paddling prohibited by all school district boards but legislative provision allowing it still exists

<sup>45</sup> Law prohibits only “excessive corporal punishment”

<sup>46</sup> Bill which would confirm parental right to use “reasonable and ordinary force as a means of discipline including, but not limited to, spanking, switching or paddling” under discussion (2014)

<sup>47</sup> House Act 1623 prohibits the use of corporal punishment against students “identified with the most significant cognitive disabilities”, unless parent or legal guardian of the child provide a waiver or agree to its use within the frame of an individualized education programme

<sup>48</sup> Law prohibits “excessive corporal punishment”

<sup>49</sup> But no explicit prohibition

<sup>50</sup> Prohibited in child welfare licensed group homes/institutions and foster care; permitted in Residential Child Care Agencies group homes/institutions (information unconfirmed)

<sup>51</sup> Prohibited in family day care and day care centres; child care centres run by religious schools exempt

<sup>52</sup> House Act 2330 prohibits the use of corporal punishment against students with disabilities, unless a parent of the child provides written consent

<sup>53</sup> Permitted in schools for children in detention run by the penal system but prohibited out of school hours

State	Prohibited in the home	Prohibited in alternative care settings	Prohibited in day care	Prohibited in schools	Prohibited in penal institutions	Prohibited as sentence for crime
Texas	NO	YES	YES	NO	YES	YES
Utah	NO <sup>54</sup>	YES	SOME <sup>55</sup>	YES	YES	YES
Vermont	NO	YES	YES	YES	?? <sup>56</sup>	YES
Virginia	NO	SOME <sup>57</sup>	[YES]	YES	YES	YES
Washington	NO	YES	YES	YES	?? <sup>58</sup>	YES
West Virginia	NO	YES	YES	YES	YES	YES
Wisconsin	NO	YES	YES	YES	YES	YES
Wyoming	NO	YES	YES	NO	[NO] <sup>59</sup>	YES

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<sup>54</sup> 2017 Utah Supreme Court case found that spanking children with a belt could not automatically be qualified as abuse as “harm” as defined by the Utah Code - “physical, emotional, or developmental injury or damage” - must be proven as a separate element.

<sup>55</sup> Parochial institutions providing educational care exempt from licensing

<sup>56</sup> Prohibited by law for adult inmates, but possibly only discouraged by policy for juveniles

<sup>57</sup> Prohibited in home foster care; permitted by law in seven licensed group homes/institutions, though policy in all seven states corporal punishment should not be used

<sup>58</sup> Prohibited by law for adult inmates, but possibly only discouraged by policy for juveniles

<sup>59</sup> Law prohibits “excessive or unreasonable” corporal punishment