

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE BILL 1138*

Short Title: Ban Corp. Punish. for Children W/Disabilit. (Public)

Sponsors: Senators Foriest, Dorsett, Hartsell; and Atwater.

Referred to: Education/Higher Education.

May 17, 2010

1 A BILL TO BE ENTITLED
2 AN ACT TO PROHIBIT THE USE OF CORPORAL PUNISHMENT FOR STUDENTS
3 WITH DISABILITIES AS RECOMMENDED BY THE JOINT LEGISLATIVE
4 EDUCATION OVERSIGHT COMMITTEE.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 115C-107.7 reads as rewritten:

7 "§ 115C-107.7. ~~Discipline~~**Discipline, corporal punishment, and homebound instruction.**

8 (a) The policies and procedures for the discipline of students with disabilities shall be
9 consistent with federal laws and regulations.

10 (a1) Corporal punishment shall not be administered on students with disabilities.

11 (b) If a change of placement occurs under the discipline regulations of IDEA, a local
12 educational agency shall not assign a student to homebound instruction without a determination
13 by the student's IEP team that the homebound instruction is the least restrictive alternative
14 environment for that student. If it is determined that the homebound instruction is the least
15 restrictive alternative environment for the student, the student's IEP team shall meet to
16 determine the nature of the homebound educational services to be provided to the student. In
17 addition, the continued appropriateness of the homebound instruction shall be evaluated
18 monthly by the designee or designees of the student's IEP team.

19 (c) **(Effective January 1, 2009, and expires March 1, 2011 – see notes)** A local
20 educational agency shall be deemed to have a "basis of knowledge" that a child is a child with a
21 disability if, prior to the behavior that precipitated the disciplinary action, the behavior and
22 performance of the child clearly and convincingly establishes the need for special education.
23 Prior disciplinary infractions shall not, standing alone, constitute clear and convincing
24 evidence."

25 SECTION 2. G.S. 115C-391(a) reads as rewritten:

26 "(a) Local boards of education shall adopt policies not inconsistent with the provisions
27 of the Constitutions of the United States and North Carolina, governing the conduct of students
28 and establishing procedures to be followed by school officials in suspending or expelling any
29 student, or in disciplining any student if the offensive behavior could result in suspension,
30 expulsion, or the administration of corporal punishment. Local boards of education shall
31 include a reasonable dress code for students in these policies.

32 The policies that shall be adopted for the administration of corporal punishment shall
33 include at a minimum the following conditions:

34 (1) Corporal punishment shall not be administered in a classroom with other
35 ~~children~~students present;



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1 (1a) As provided in G.S. 115C-107.7(a1), corporal punishment shall not be
2 administered on a student who is a child with a disability as defined in
3 G.S. 115C-106.3(1);

4 (2) The student body shall be informed beforehand what general types of
5 misconduct could result in corporal punishment;

6 (3) Only a teacher, substitute teacher, principal, or assistant principal may
7 administer corporal punishment and may do so only in the presence of a
8 principal, assistant principal, teacher, substitute teacher, teacher assistant, or
9 student teacher, who shall be informed beforehand and in the student's
10 presence of the reason for the punishment; and

11 (4) An appropriate school official shall provide the ~~child's~~ student's parent or
12 guardian with notification that corporal punishment has been administered,
13 and upon request, the official who administered the corporal punishment
14 shall provide the ~~child's~~ student's parent or guardian a written explanation of
15 the reasons and the name of the second school official who was present.

16 Each local board shall publish all the policies mandated by this subsection and make them
17 available to each student and ~~his~~ each student's parent or guardian at the beginning of each
18 school year. Notwithstanding any policy adopted pursuant to this section, school personnel may
19 use reasonable force, including corporal punishment, to control behavior or to remove a person
20 from the scene in those situations when necessary:

21 (1) To quell a disturbance threatening injury to others;

22 (2) To obtain possession of weapons or other dangerous objects on the person,
23 or within the control, of a student;

24 (3) For self-defense;

25 (4) For the protection of persons or property; or

26 (5) To maintain order on school property, in the classroom, or at a
27 school-related activity on or off school property."

28 **SECTION 3.** This act is effective when it becomes law and applies beginning with
29 the 2010-2011 school year.