

EDUCATION AND WORKFORCE DEVELOPMENT CABINET

Board of Education

Department of Education

(New Administrative Regulation)

704 KAR 7:170. Corporal punishment.

RELATES TO: KRS 156.160, KRS 158.6451, KRS 503.110, KRS 503.050, KRS 503.070

STATUTORY AUTHORITY: KRS 156.070, 156.160, 158.444

NECESSITY, FUNCTION, AND CONFORMITY: KRS 156.070 grants the Kentucky Board of Education the management and control of the common schools and all programs operated within those schools. KRS 156.160(1)(h) requires the Kentucky Board of Education to promulgate administrative regulations necessary or advisable for the protection of the physical welfare and safety of public school students. KRS 158.444 requires the Kentucky Board of Education to promulgate administrative regulations relating to school safety, student discipline, and related matters.

Section 1. Definitions.

- (1) "Corporal punishment" means the deliberate infliction of physical pain by any means upon the whole or any part of a student's body as a penalty or punishment for student misbehavior;
- (2) "Qualified mental health professional" means the same as defined in KRS 202A.011(12);
- (3) "Dangerous instrument" means the same as defined in KRS 500.080;
- (4) "Deadly weapon" means the same as defined in KRS 500.080;
- (5) "Physical injury" means the same as defined in KRS 500.080; and
- (6) "Serious physical injury" means the same as defined in KRS 500.080.

Section 2. No student with an Individual Education Program (IEP) pursuant to 707 KAR Chapter 1, 504 plan pursuant to Section 504 of the Rehabilitation Act of 1973, or identified as a homeless or foster care youth pursuant to 704 KAR 7:090 shall be subjected to corporal punishment.

Section 3.

- (1) Within the first five (5) days of enrollment each school year, the school shall request written consent from the legal guardian of each student to use corporal punishment as a behavior intervention for their child. The written consent shall inform the legal guardian of how to access the student code of conduct, describe the code of conduct violations that may result in corporal punishment, and notify the legal guardian that consent may be withdrawn at any point during the school year. Absent valid written consent signed by the legal guardian, corporal punishment shall not be administered.
- (2) Before administering corporal punishment to a pupil, the school shall contact the child's legal guardian to provide prior notification and receive affirmative verbal consent.

Section 4. Notwithstanding the provisions of KRS 503.070 and KRS 503.050, prior to administering corporal punishment to a pupil, the school shall attempt to remedy problematic behavior through other non-physical means.

Section 5.

- (1) Corporal punishment may only be administered by the Principal or Assistant Principal. Corporal punishment shall only be administered in the presence of at least one additional certified staff member who is the same gender as the student.
- (2) No staff member shall be compelled to administer or witness corporal punishment.

Section 6.

- (1) After administering corporal punishment, the school shall ensure that the student receives a minimum of thirty (30) minutes of counseling provided by the school's guidance counselor, school social worker, school psychologist, or other qualified mental health professional no later than the end of the next school day.
- (2) Each incidence of corporal punishment must be recorded in the student information system. Schools shall report:
 - (a) The time and date which the punishment was administered;
 - (b) The name and position of the individual who administered the punishment;
 - (c) The names and positions of any witnesses to the punishment;
 - (d) The time and date of the prior consent required under Section 3;
 - (e) The name and relationship of the individual providing consent under Section 3;
 - (f) The behavioral interventions deployed prior to corporal punishment as required under Section 4; and
 - (g) The time and date of the student counseling appointment required under Section 5.

Section 7.

- (1) Each local board of education shall adopt a policy that either:
 - (a) Prohibits the use of corporal punishment in the district; or
 - (b) Allows the use of corporal punishment in the district.
- (2) If the local board of education adopts a policy allowing the use of corporal punishment, its policy shall:
 - (a) Define the circumstances under which corporal punishment may be deployed which shall not exceed the justification included in KRS 503.110;
 - (b) Define the procedures for deploying such punishment;
 - (c) Define the tool or instrument to be used when administering corporal punishment and include a prohibition on the use of dangerous instruments or deadly weapons;
 - (d) Define the limits on corporal punishment and ensures that corporal punishment does not result in physical injury or serious physical injury; and
 - (e) Define the procedures for documenting and reporting such punishment.

This is to certify that the chief state school officer has reviewed and recommended this administrative regulation prior to its adoption by the Kentucky Board of Education, as required by KRS 156.070(5).

*JASON GLASS, Commissioner of Education
LU YOUNG, Chair*

APPROVED BY AGENCY: December 6, 2021

FILED WITH LRC: December 7, 2021 at 3:45 p.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held on February 22, 2022 at 10:00 a.m. in the State Board Room, 5th Floor, Kentucky Department of Education, 300 Sower Boulevard, Frankfort, Kentucky. Individuals interested in being heard at this meeting shall notify this agency in writing five working days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until February 28, 2022. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Todd G. Allen, General Counsel, Kentucky Department of Education, 300 Sower Boulevard, 5th Floor, Frankfort, Kentucky 40601, phone 502-564-4474, fax 502-564-9321, email regcomments@education.ky.gov.