

Legislator Concerns / Misunderstandings Related to SB 364 “Prohibit Use of Corporal Punishment to Discipline Students with Disabilities Under IDEA”

SB 364 Undermines Parental Rights.

This bill does not prohibit parents from administering corporal punishment at school on their child. In the state of OK, parent permission is not required to use CP on a student even a disabled student under IDEA except the "significant cognitively disabled student" which is a very small percentage (less than 10%) of disabled students in OK. In state statute, discipline policies are under the control of the local school districts, and the district decides whether to require parent permission to corporally punish a child. In “List of Example Cases of CP being administered to Disabled Students in OK Public Schools Power Point (PPT) Slide” except for the child with Cerebral Palsy and Auditory Processing Disorder/Autism case, the parent did not give permission for their child to be corporally punished. And except in the Cerebral Palsy case, parents did not learn about the CP till their child told them or in the case of non-verbal children, an adult observed the CP and reported. In the Auditory Processing/Aspergers Case, the parent put a letter in the student’s file not to corporally punish their child and the child was paddled several times prior to the parent learning about the use of CP.

Corporal punishment (CP) of Students with Disabilities is Only Administered with a Paddle.

The legal definition in OK state statute describes it as hitting, slapping, paddling or any other method of inflicting pain. On the list of example cases in the PPT presentation, there are confirmed cases where slapping, hitting, hair pulling, and choking were used to discipline a disabled student under IDEA in OK Public Schools.

Evidence CP of Students with Disabilities under IDEA Happening in OK Public Schools.

In the summer of 2022, State Department of Education Special Education Department (SDE SPED) conducted a survey regarding the use of CP on disabled students under IDEA in OK Public Schools. SDE SPED Survey Results - 63 school districts self-reported administering corporal punishment to students with disabilities under IDEA with a total of 455 incidences in the 2021-2022 school year. **And nine school districts included in the list of case examples are not on the list of school districts self-reporting the use of CP on students with disabilities under IDEA in the summer of 2022.**

History – In March 2020, the OK State Board of Education approved the rule that prohibited the use of corporal punishment on students with disabilities entitled to special education services under IDEA beginning in the 2020-2021 school year. This rule was signed by Governor Stitt in June 2020.

<https://www.edprofiles.info/doc/profiles/2022/reports/src/202248c072105.pdf>

A student Can Easily Qualify as Disabled under IDEA and Require an Individualized Education Program (IEP), in OK Public Schools.

Currently in OK only 17% of students qualify as disabled under IDEA. In the school year 2020-21, 20% of all incidences of CP were on students with disabilities under IDEA. A student that is categorized disabled under IDEA **requires specially designed instruction and special services** (i.e. occupational therapy, physical therapy, behavior therapy, nursing, speech therapy, mental health therapy etc.) because their **disability adversely impacts their ability to learn.**

Examples of misunderstandings regarding specific IDEA disability categories -

- Vision or hearing impairment – when a student qualifies under IDEA, the student’s vision or hearing disability **cannot** be corrected by glasses/contact lenses or hearing aids/cochlear implants etc. In both these impairment disabilities, specialized instruction and additional services or therapy is required for the child to learn.
- Dyslexia is another student disability under IDEA that is commonly misunderstood. Due to the Strong Readers Act, Universal Screening is done in public schools which screens for **characteristics of dyslexia but is not a diagnosis of dyslexia.** Characteristics of dyslexia may include slow word recognition or a problem with blended sounds but these students’ reading skills are within average range of those students who can read. So, these students with dyslexia characteristics **are not** eligible or qualified as disabled under IDEA but will benefit from reading intervention support. A student qualified with dyslexia under IDEA must be below 16% standardized norm reference test performed

by psychometrist or psychologist. Additionally, they will have weekly monitoring of five reading components while participating in reading intervention. Data is collected and if progress is not seen after 6-9 weeks of the reading intervention, the student can be referred for a learning disability under IDEA. **A student with dyslexia disability under IDEA is qualified because after a comprehensive evaluation, it is determined the severity of the dyslexia adversely impacts their ability to learn. A student with true dyslexia, has a neurological deficit that causes them not to be able to read with comprehension.** They may be on grade level recognizing letter sounds, reading words, and pronouncing words, but will have a problem with reading comprehension and **require specialized instruction and special services to learn.**

Dr. Andrea Kunkel, general counsel for Cooperative Council for Oklahoma School Administration (CCOSA) and executive director for Oklahoma Directors of Special Services (ODSS), explained at the House Education Interim Study in 2023 that the process for identifying a child as qualified under the IDEA categories is a “very in-depth process”. A disabled student under IDEA has their IEP reviewed by school personnel and specialists several times a year and the IEP is continuously adjusted – which is not an “easy” process.

Prohibiting Use of CP to Discipline Students with Disabilities Undermines Teachers' Ability to Maintain Classroom Discipline and Alternative Methods of Discipline Training is a Cost Burden School Districts. Research shows that positive behavior interventions are more effective in managing student behavior without the risks of trauma or legal liability associated with corporal punishment. Evidence-based alternative methods of discipline are cost-effective and already widely used in majority of OK Public Schools. And Federal IDEA funds can also be used to support cost of training in positive behavior strategies. Currently, SDE contracts with several state entities to provide student behavior management training at **no cost** to districts and these trainings are offered multiple times during the year including summer such as the BeST behavior training at UCO Behavior Central.

Prohibiting the Use of CP to Discipline Students with Disabilities Creates Two Distinct Categories of Students – “those that can be paddled and those that cannot be”.

Disabled students under IDEA are already distinguished as a separate population in OK public schools. **They are afforded the right to have their differences recognized under federal law, and their differences are already accommodated in public schools so prohibiting CP would be no different.**

The reasons not to use corporal punishment on disabled students under IDEA include -

- Disabled students may not be able to control their behavior, as it is often a manifestation of their disability.
- May not cognitively understand why they're being punished, and CP could increase behavior issues and result in emotional trauma.
- Their disruptive behavior is a reaction to humiliation or bullying related to their disability.
- Physically not able to respond appropriately because of their disability (e.g. speech or sensory disorder)

The use of corporal punishment interferes with students' progress towards goals of positive behavior.

- Autism Foundation: “Corporal punishment is inappropriate for students with disabilities under IDEA because it ignores their lack of control over behavior, cognitive understanding, and physical limitations. It can worsen behavior, cause emotional trauma, and is often a response to bullying or humiliation related to their disability.”
- Parent Child Center Tulsa: "The distinction (between students) reflects a need for fairness, not privilege, recognizing that corporal punishment disproportionately harms disabled students due to their unique vulnerabilities."
- Dr. Scott Singleton, UCO professor, Board Certified Behavior Analyst and Nationally Certified School Psychologist “Students with disabilities, including speech/ language impairments, may not be able to process what they’ve done or why they’re being punished.” To summarize his Interim Study comments - The use of corporal punishment to discipline is ineffective because the disabled child (under IDEA) often cannot correlate why they are being hit with what they did.

The SB 364 Infringes on Local Control of Schools.

The bill aligns with federal guidelines under IDEA, which already establish protections for students with disabilities and ensures safe, equitable learning environments. **There are other statewide rules in public schools that are mandated under OK Statutes that local districts and parents do not control such as Compulsory Education (attendance) 70 OK Stat § 10-105.**