

# MAINE STATE LEGISLATURE

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May 3, 1977

Honorable Robert S. Howe  
House of Representatives  
State House  
Augusta, Maine

Dear Bob:

This responds to your request for advice as to whether the provisions of 17-A M.R.S.A. § 106-1 relating to corporal punishment permit parents to delegate permission to use corporal punishment to school officials. Title 17-A M.R.S.A. § 106-1 provides as follows:

"A parent, foster parent, guardian or other similar person responsible for the long term general care and welfare of a person is justified in using a reasonable degree of force against such person when and to the extent that he reasonably believes it necessary to prevent or punish such person's misconduct. A person to whom such parent, foster parent, guardian or other responsible person has expressly delegated permission to so prevent or punish misconduct is similarly justified in using a reasonable degree of force."

It is our view that this section does permit a parent to expressly delegate permission to use corporal punishment to punish a person for misconduct to individual teachers or to a school. Such delegation must be in clear and specific terms. Enclosed for your interest is a letter sent by this office on August 2, 1976, which also addressed this question. That letter noted that there may be some agreements with private schools which now provide that delegation. We do not suggest approval of any form for such delegation by either that letter or this letter.

Hon. Robert S. Howe  
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I hope this information is helpful.

Sincerely,

DONALD G. ALEXANDER  
Deputy Attorney General

DGA/ec  
Enclosure

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DEPARTMENT OF THE ATTORNEY GENERAL  
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August 2, 1976

Ralph I. Yarnell, Jr.  
Executive Director  
Northeastern Regional  
American Association of Christian Schools  
Route 1, Box 6 - Outer Broadway  
Bangor, Maine 04401

Re: Corporal Punishment.

Dear Mr. Yarnell:

Your letter of July 16, 1976, to Senator Howard M. Trotsky was delivered to me by the Senator with the request that this office respond directly to you.

You have expressed a concern about "the possibility that corporal punishment will no longer be legal" in private Christian schools. It is strongly recommended that you contact private counsel as to what leeway there is available for the use of physical force by your teachers under the Maine Criminal Code, specifically, Title 17-A, § 106, ¶¶ 1 and 2, Maine Revised Statutes Annotated. It may well be that your teachers have received the necessary authority from each of the student's parents so as to be able to use corporal punishment where necessary. Please refer to the second sentence of paragraph 1 of section 106.

I trust the above answers many of the concerns expressed in your letter.

Respectfully yours,

*Joseph E. Brennan*  
JOSEPH E. BRENNAN  
Attorney General

JEB/ec

cc: Senator Howard M. Trotsky  
Waldemar Buschmann, Esquire