

Opinion No. [29-80]

April 2, 1929

TO: Office of the Attorney General of New Mexico

SCHOOLS -- Teacher's responsibility for discipline.

OPINION

I have before me your letter of March 29 into which you copy three questions submitted to you by J. Ethan Wright, Superintendent of Valedon School, and which you have referred to this office.

The questions are:

"1. What legal stand does this state assume with regard to corporal punishment of school children?

"2. Does this state subscribe to the doctrine of 'In loco parentis (parentis)'?"

"3. As a light paddle is often the most practical instrument for the punishment of children, I should like to be advised as to whether its use in this way is permissible."

These questions, all falling under one general head, discipline, may be answered in the same paragraph.

A teacher is responsible for the discipline of his school and for the progress, conduct and deportment of his pupils. To enable him to discharge his duties effectually, he must necessarily have the power to enforce obedience to lawful rules and regulations, for which reason the law gives him the power, in proper cases, to inflict corporal punishment on refractory pupils. His authority is sanctioned, it seems, on the theory that for such purposes he stands "in loco parentis". This, however, is true only in a limited sense. The teacher's right does not go as far as that of a parent but is restricted to the limitations of his jurisdiction and responsibility. The teacher's right to inflict corporal punishment, and the extent thereof, have been made the subject of legislative enactment in a few instances and in some instances the right has been entirely abolished. I do not know of any statute in New Mexico having direct bearing on this subject. As a general rule supported by all the authorities, punishment inflicted by a teacher must be reasonable and must be confined within the bounds of moderation. That is, it must not be cruel or excessive, and the teacher must not act wantonly or from malice or passion. No precise rule can be laid down as to what is to be considered excessive or unreasonable. Each case must depend on its own circumstances, the apparent motive and disposition of the offender, age, size, sex and physical strength of the pupil, as well as the instrument used.

A teacher inflicting in a proper case moderate punishment, with a proper instrument, is, as a rule, protected from civil liability and, as well, protected from a charge of assault and battery. For wanton and excessive punishment, a teacher may be held answerable in civil action and also in a criminal prosecution.