

STATE BOARD OF EDUCATION – ADMINISTRATIVE RULE SUMMARY

Title/OAR #: Corporal Punishment / OAR 581-021-0061

Date: January 22, 2015

Staff/Office: John English, Student Services

New Rule Amend Existing Rule Repeal Rule
Hearing Date: _____ Hearings Officer Report Attached
Prompted by: State law changes Federal law changes Other

Action Requested:
 First Reading/Second Reading Adoption Adoption/Consent Agenda

PROPOSED/AMENDED RULE SUMMARY:

Aligns Oregon administrative rule definition of corporal punishment to be consistent with current statute/regulations for restraint and seclusion.

BACKGROUND:

- HB 2939 (now codified at ORS 339.291) was passed in 2011. This bill defined restraint and seclusion, and restricted the use of such practices to situations where: 1) the student’s behavior imposes a reasonable threat of imminent, serious bodily injury to the student or others; and 2) less restrictive interventions would not be effective.
- HB 2192 (now codified at ORS 339.250) was passed in 2013. This statute revised Oregon’s school discipline code, and reaffirmed the prohibition of corporal punishment in Oregon schools. The statute defines corporal punishment as the “willful infliction of, or willfully causing the infliction of, physical pain on a student.”
- OAR 581-021-0061 defines corporal punishment in a manner that is inconsistent with ORS 339.291. Specifically, it states, “Corporal punishment does not include the emergency use of reasonable physical force by a school administrator, teacher, school employee, or volunteer as necessary to *maintain order* or to prevent a student from harming him/herself, other students, and school staff *or property*.” (OAR 581-021-0061(2), emphasis added).

ISSUES/CONCERNS THAT SURFACED DURING RULE WORK:

ODE has received input from the field that the language in OAR 581-021-0061 could be construed by school personnel as allowing restraint and seclusion in broader circumstances than those set forth in ORS 339.291. Revising the rule to be consistent with the aforementioned statutes would likely eliminate unnecessary confusion, and ensure restraint and seclusion is used only when appropriate.

CHANGED SINCE LAST BOARD MEETING?

- N/A; first read—hasn't been before board
- No; same as last month
- Yes – As follows:

FISCAL IMPACT:

It is not anticipated that this rule change would have a fiscal impact. The rule merely aligns administrative regulation to ensure consistency with the restraint/seclusion and school discipline statutes.

STAFF RECOMMENDATION:

- Adopt administrative rule as prepared this month
- Adopt administrative rule next month
- No recommendation at this time (rarely used)

Created by CH on 12/15/14

OAR 581-021-0061

Corporal Punishment Defined

(1) Corporal punishment is any act which willfully inflicts or willfully causes the infliction of physical pain on a student.

~~(2) Corporal punishment does not include the emergency use of reasonable physical force by a school administrator, teacher, school employee, or volunteer as necessary to maintain order or to prevent a student from harming him/herself, other students, and school staff or property.~~

~~(3)~~(2) Corporal punishment does not include physical pain or discomfort resulting from or caused by:

(a) Training for or participation in athletic competition voluntarily engaged in by a student;

(b) Recreational activity voluntarily engaged in by a student;

(c) Physical exertion shared by all students in a teacher directed class activity, which may include, but is not limited to, physical education exercises, field trips, or vocational education projects; or

(d) Physical restraint or seclusion when used as provided in ORS 339.291 and OAR 581-021-0553.

~~(A) As part of a behavior support plan in a student's individual education program which has been developed with parent participation as required in Chapter 343, or, with parent participation, in a student's Section 504 plan or other behavior support plan;~~

~~(B) That includes an individual threshold (number of incidents within a specific time period) for reviewing the plan; and~~

~~(C) Is carried out according to district policies and procedures under OAR 581-021-0062, which must be provided to the parents upon request when a plan is developed that includes the use of physical restraint and/or seclusion.~~

Stat. Auth.: ORS 339

Stats. Implemented: ORS 339.250

Hist.: ED 25-1989(Temp), f. & cert. ef. 9-8-89; EB 20-1990, f. & cert. ef. 4-5-90; ODE 17-2006, f. 12-11-06, cert. ef. 12-12-06