

MINUTES

MONTANA SENATE  
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON EDUCATION

Call to Order: By Senator H. W. Hammond, Chairman, on February 13, 1989, at 12:30 pm in Room 402 at the State Capitol

ROLL CALL

Members Present: Senators; H. W. Hammond, Dennis Nathe, Chet Blaylock, Bob Brown, R. J. "Dick" Pinsoneault, William Farrell, Pat Regan, John Anderson Jr., and Joe Mazurek

Members Excused: None

Members Absent: None

Staff Present: Dave Cogley, Staff Researcher and Julie Harmala, Committee Secretary

Announcements/Discussion:

None

HEARING ON SB 378

Presentation and Opening Statement by Sponsor:

SENATOR JUDY JACOBSON, Senate District #36, stated that SB 378 is a bill that would change the corporal punishment statutes, taking corporal punishment out totally and putting in instead the Section 1.

The bill has been put together with input from the group of people that have been working on abolishing corporal punishment, the Montana Education Association and the Office of Public Instruction. There has been fairly good agreement at this point in time and there has been a national push by a number of groups including the psychologists, the National Educational Association, the PTA, The American Bar Association and others that would like to abolish corporal punishment in the schools.

Senator Jacobson went on to say that there were a number of people that were at committee meeting to speak to this issue.

List of Testifying Proponents and What Group they Represent:

KAREN YOUSO, President of Parents for the Abolition of Violence in Education, PAVE  
HELEN VOLDEN, Montana Parent Teachers Association  
NANCY GRIFFIN, Women's Lobbyist Fund  
KATHY WHITE, Vice President of Parents for the Abolition of Violence in Education  
MARK TAYLOR, The Montana Association of School Psychologists  
CAROL MCKERROW, The Montana Committee for the Prevention of Child Abuse.  
MARY DOUBEK, A parent  
PHIL BROOKS, The Helena School Board  
CYNTHIA BUEHL, Counselor at the Youth Services in Billings, Montana  
JUDITH CARLSON, The Montana Chapter of Social Workers  
JACK COPPS, Deputy Supervisor for the Office of Public Instruction  
PHIL CAMPBELL, The Montana Education Association  
TERRY MINOW, The Montana Federation of Teachers  
EILEEN MORGAN, The Montana Association of School Psychologists  
CLAUDETTE MORTON, Executive Secretary to the Board of Public Education  
JESS LONG, The School Administrators of Montana  
J. HENRY BADT, The Montana Association of County School Superintendents

Testimony:

SEE EXHIBIT #1, which is written testimony of several people testifying.

PHIL CAMPBELL, MEA, stated that they want to go on record as supporting SB 378. While working with parents and looking at the bill, some of the language including the catch line, which talks about the "power of teachers" over students, seems odd. He said that as they looked at this matter it was apparent how important it is to the teachers that there are statutes that hold students accountable for their actions in school and this bill does that. Also it defines corporal punishment as being the "the intentional infliction of pain."

The MEA does not support intentional infliction of pain, hitting, slapping, kicking, or any of these kinds of things

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that are obviously not educationally beneficial. They can do great harm.

The bill also provides that educators can use needed restraint to enforce discipline to protect other students. Currently the teachers are exempt from corporal punishment. Teachers were removed from this a few years ago and this was given to the principals to handle.

Mr. Campbell said he felt this was a good public policy, for Montana to be on record and include it in our statutes that we do not support corporal punishment for our children in schools.

JACK COPPS stated that OPI supports SB 378. He went on to say that there was a time in our living when corporal punishment or the infliction of physical pain was the way to handle inattention on the part of students or to handle misbehavior on the part of students. There was also a time more recently when it was decided that there were some other good alternatives available to use, but corporal punishment was continued in these statutes as a last resort.

Mr. Copps suggested that we have finally arrived at the day to do away with corporal punishment in its entirety and to recognize it for what it is.

He said is ineffective and it is in fact harmful in the educational process. We educate through reason, we should not educate through fear, intimidation, or pain.

TERRY MINOW, representing the MFT wanted to go on record as supporting SB 378.

JESS LONG, representing SAM, stated that there should be a law on the books saying that corporal punishment is wrong, and the addition of a definition in Sub Section 2 of the bill should certainly be a part of any definition that is for corporal punishment.

He said that he represents an organization that works with the administrators who work with at risk students. There is certainly strength within SAM to abolish corporal punishment in the sense that for no other reason it certainly is a source of a great deal of litigation. There is no need for any punishment to be inflicted that brings about litigation involving students.

J. HENRY BADT, representing MACSS, stated that he favors SB 378 because our children are more sophisticated now than they were in the olden days, when corporal punishment was thought to be a necessity.

List of Testifying Opponents and What Group They Represent:

CHIP ERDMANN, The Association of Rural School Districts  
BRUCE MOERER, The Montana School Board Association  
DOUG KELLY, The Private Schools of Montana

Testimony:

CHIP ERDMANN stated that they were not here today to support or oppose the concept of corporal punishment, but the group he represents do have some problems with the bill. He went on to say that no one condones the abuse of children in any setting or at any age. One thing that he wanted to clarify is that criminal laws are not suspended "at the school house doors," if there is any kind of activity or actions that go on that are in fact assaultive or abusive, the criminal laws apply with full effect.

He state that his group's position is that this is a decision that is best left to the local communities, to a locally elected school board. They can have the hearing on the local level and bring in the parent, they can sit down and listen to the concerns and listen to the same testimony. Then they can make determinations for what is proper for that community. However he said he thought that some of the people that testified in favor of SB 378, testified that the definition of corporal punishment in the bill was a good definition and if nothing comes out of this it should probably be testified in court that the bill includes a good definition of corporal punishment and it should be incorporated into the existing statutes.

He went on to say that as far as Sub Section 4 goes, he has some technical concerns in that the term "physical restraint is allowed." He feels that restraint is not the right word to use if this section is left in the bill. For example if a 185 pound student is attacking a 105 pound teacher, the teacher's reaction could not be called restraint. He feels that Sub Section 4 is not needed because it is already on the statutes to allow a teacher to use reasonable and necessary force.

BRUCE MOERER, representing MSBA, stated that his group is not exactly an opponent of this bill, we do not condone corporal punishment. While listening to this hearing the characterization appears that Montana's schools are full of violence and mistreatment of children and he said that he strongly objects to this characterization because he feels this is not happening right now.

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The testimony deals with the fact that we can not let our teachers hit our children and if the current law is looked at, it already prohibits this except in a small school where there is no principal or superintendent. The law prohibits abuse and the MSBA does not condone abuse, but this bill is not necessary. He added that he thought that in Sub Section 2 there was a good definition of corporal punishment.

DOUG KELLY stated that he is a representative for private schools and therefore he said he would not try to address all the different things heard today because private schools would do quite well if things are as bad as he heard today in the public school system. He said he tended to agree with those that think it is not that bad.

One of his concerns has to do with the whole philosophy testified to today having to do with corporal correction. He stated that he firmly believes as an educator and as a principal of a private academy with approximately 90 students he is testifying primarily to have the records reflect that private school educators believe that corporal correction is mandated by the "word of God." They believe that the Bible says that "foolishness is bound up in the heart of a child, but the rod of correction drives it far from them."

He stated that he tells his students as he prays with them before he administers corporal correction that sometimes God made brain cells in the buttocks and he is releasing "fresh brain cells." Granted, he said we do it in a rather careful sort of way because we are afraid of law suits and litigation and we are not interested in having law suits against us while we are busy administering corporal correction. "We do believe that this is first and foremost the responsibility of the parents." Nevertheless when the parents put their children into our academy they are giving their children to us to help them raise them up in fear and admonition of the Lord." He said that it is a sad condition when children control the hall ways and he is concerned that children are educated not merely through reason but we educate through the removal of privileges and in many different ways. He suggested that all of the instances of abuse that were heard today could have been and should have been prosecuted by a local county attorney. He said he is also concerned with a philosophy against corporal correction that might be adopted either by this committee, by the Senate or the state legislature. It is believed by the private school administrators that corporal correction is primarily a parental responsibility and secondarily with the school teachers and principals who stand in "loco parentis."

Questions From Committee Members:

Senator Pinsoneault ask Chip Erdmann, "You said you like the definition of corporal punishment but would not "intentional" instead of "willful" be more appropriate. Willful implies someone who is vengefully striking. Mr. Erdmann replied that he thought intentional would go into the bill well. He pointed out that one of the problems in Montana is that there is no definition of corporal punishment. There was a lot of confusion as to what it was.

Closing by Sponsor:

SENATOR JACOBSON closed by telling the committee that when she was ask to carry this bill the only thing she told the people who brought the bill to her was that she wanted input from OPI, teachers organizations and the education community. She said that she thinks that has been done in the best possible way as has been noticed from the testimonies heard today. She said she thought that several references have been made to the developmental disabilities and the people that work with the developmental disabilities are starting to rethink the methods they use and taking the corporal punishment types of behavior modification out of their treatment plan. She went on to say that she thought that it is probably time to look at this, as other states in the nation are looking at it to.

She said that she thinks they have done the very best job they could do to bring a bill that was felt to be a well put together as possible to meet the needs of the teacher, parents, and the students.

She urged that the committee give the SB 378 a do pass recommendation.

HEARING ON SB 104

Presentation and Opening Statement by Sponsor:

SENATOR GREG JERGESON, Senate District #8, ask Chairman Hammond and the committee to lay SB 104 on the table and let it quietly find its demise through transmittal.

He stated that the reason he is making a few remarks on this bill is because to a degree it is a product of the interim committee that met through the course of the last two years arising out of HJR 16. The eight members of this committee

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worked very hard during this time and all of the members shared a dedication to quality education, however there were some disagreements within the committee. The reason the four introduced the bill is that there was some concern that either directly or by implication there may be an attempt to define the system of basic quality education as something less than what is out there, something less than what the local school districts, taxpayers, professionals, students, and parents have over the years developed. When the bill was introduced it was necessary to define in the statutes what a basic system is and to recognize what is out there is a valid definition of a basic system. He went on to say that he thought the consensus was building that the system defines itself and to put a definition in the statute is redundant, when in fact it is out there.

He stated to the Chairman and to the committee that he anticipates now that having asked to lay this on the table and let the bill die there are likely to be not nearly as many proponents and opponents.

Questions From Committee Members:

Senator Regan to Senator Jergeson, she stated that her understanding was that the Loble Law Suit required that a definition be adopted of what is a quality basic education. She said that it had never been defined in the law.

Senator Jergeson stated that this was not necessarily the case. Even if there was an expectation to have a definition, because of the fact that the system itself is defining, he felt that there was no need to define it.

Dave Cogley interpreted the question by saying that he did not recall anything in the Loble Decision specifically requiring a legislative definition of basic education. The Supreme Court, not the district court, did hold that there are some components that have to be considered in funding or equalizing funding for equal educational opportunity. He said that where they were addressing the accreditation standards, they did not say to define basic education, they just said that this was a component of it.

Senator Mazurek asked Senator Jergeson if he knew of anyone else who may have an intention of blasting this out or doing anything else with it. He replied that he was not aware of anyone but if he had pursued it himself he would have had an amendment for Section 1, Sub a, however if anybody tries to blast it out as it is or tries to define basic quality education as something less than is out there today, "I tell you I would fight my own bill up and down the halls."

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HEARING ON HB 360

Presentation and Opening Statement by Sponsor:

SENATOR PAUL BOYLAN, Senate District #39, stated that he introduced this bill at the request of the Department of Family Services. He then gave them the floor.

List of Testifying Proponents and What Group they Represent:

BILL UNGER, The Superintendent of Mountain View School

Testimony:

BILL UNGER stated that he came representing Family Services in support of SB 360. (See Exhibit #1)

List of Testifying Opponents and What Group They Represent:

PHIL CAMPBELL, The Montana Education Association

Testimony:

PHIL CAMPBELL, representing the MEA, stated that he understood there was strong opposition to this bill and in all due respect to Senator Boylan and to Mr.Unger, he said he was disappointed in the Department of Family Services for not being at the hearing because there are issues that he wanted to explain.

He went on to say that Mr. Unger stated the Supreme Court ruled that the teachers at Mountain View were state employees, Mr. Unger said this as if it were new news. He then passed out to the committee (See Exhibit #2), a copy of the contract for the teachers at Pine Hills.

He said that under the section of law that is being proposed for this change, under the definition that school teachers are excluded from benefits of state employees, so the Department of Institutions were denying these people the benefits of all other state employees and saying that we were going to treat them as teachers, this is not true because they granted benefits of teachers that teachers are granted under the statutes. Teachers are entitled to tenure this is not the case with teachers at Pine Hills and Mountain View. They do not need this because they bargained it into their contract, but they do not have statutory provisions that teachers have so they would not let them

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have this as teachers and then they said you are exempt from the benefit of other state employees because they are school teachers. This is the question that was put to the court.

Mr. Campbell passed out copies of the court decision. (See Exhibit #3) The Supreme Court upheld the lower court's decision saying that these people were indeed state employees. They are not newly created state employees, they are in fact state employees.

Mr. Unger would have you believe that these people would have to work eight hours a day in order to get these benefits, Mr. Campbell said this is not correct and this can be seen in the contract. The benefits they would get as state employees that they are entitled to are pro rated on the amount of time they work. They do not get full range of vacation time because they do not work twelve months of the year.

Mr. Unger stated that it would cost extra money and Mr. Campbell agreed that it probably would because they have been denying the benefits but this is not something that is new. These people have been negligent in their duties if they have not included this in their budget because the Supreme Court decision came down in 1987 and why is this not in their budget. It seems that they have neglected their duties to include this in their budget. It is clearly an item that these people are entitled to.

Mr. Unger mentioned that Mountain View teachers are getting the salary that was appropriated by the legislature last session HB 870 appropriated \$98,667 toward teachers in the institutions. At a time when everyone else was being cut or frozen this legislature said that these people deserve more money and truly they do.

He went on to explain that Mountain View teachers have conceded in the bargaining process, they have agreed to what the state wanted and that is that they would not get any more money and they would have to increase in fact their work year from 185 days to 205 days. They have to work for 20 days more for the same amount of money. The Pine Hills teachers have not seen fit to do this, they think they are entitled to the benefits that have been reaffirmed by the Supreme Court. They get holiday off, but the difference is they are not being paid for it. All other state employees get paid for holidays. These teachers do not. This is typical of what has been going on with the teachers in the institutions and it is a crime that ought to be stopped. Even in light of the Supreme Court decision, these people have not gotten their money. The state is telling these people that if they do not agree to add 20 days to your work

year the state will not settle the contract. There is a stipulation in the law that says if you do not settle your contract you can not get the wages. As we stand here these people are not receiving a nickel of the money that has been appropriated to them for their salaries. Mountain View teachers did give in, but this should not have to be bargained over statutory benefits. This is mandated in the statutes and there are provisions that they should not have to bargain.

He spoke to the bill saying that Section 2, is dealing with what will happen to the teachers if their holiday or vacation falls on a day that is already off. (See Exhibit #4) They do not get to make up a day that is already taken off in their holiday time.

He stated that what this bill does, is to deny these teachers benefits that they have been entitled to all along but they have never received. The state just wants to legitimize their actions. This is a bad bill for the teachers at Pine Hill and Mountain View. They are teachers and would like to be treated as teachers. The Department of Institutions would like to pay these people what their counterparts are getting under the public schools provisions.

This bill should be killed and the legislature should make a commitment to send a message down to the Department of Family Services to do what they are suppose to do by abiding by the Supreme Court decision.

Questions From Committee Members:

Senator Blaylock ask Senator Boylan if there was any reason why the state has not done for the teachers what they were suppose to do. He ask if it was because of the fact that the legislature did not give the amount of money that they should have given. He wondered why these people are continued to be treated in this fashion.

Mr. Unger replied that he wished there was a member of the Department of Family Services legal staff was here. They could answer more correctly. The decision by the Supreme Court indicated that the teachers would get vacation time and holidays. They did not address the issue of compensation. The position that the Department took prior to this decision going back to 1980, the contracts with teachers were just like the regular school districts. This contract was for 185 days and it did not address vacation time, and it did not address holiday pay. This was for 185 days, and it was the departments position at the time that the teachers have summers off, they have spring break off,

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and they should not be earning vacation time. Or if so this is in the total compensation that was set by the legislature. Part of the problem with the negotiation with the Mountain View people was that this is the amount of money that was appropriated by the legislature and there was an increase, and this increase was given to the teachers in their base salary. This could have been used to account for their vacation time and holidays but what the Department was looking for is the ability to treat teachers at Mountain View and Pine Hill just like the regular teachers and this is what they are asking for, they are not asking for vacation time. He said he has no problem if they get added compensation, but it will be disruptive in a classroom to have the teacher take off eleven days in addition to the sick leave that they are off.

He continued by commenting on Mr. Campbell's statement about tenure, he said they do have tenure after 6 months of state employment. There is not the purogative of after 3 years to decide whether or not a teacher should be retained. This decision must be made by us in six months.

Senator Mazurek stated that the money was appropriated to the teachers at these school last session because they have been requesting it for years. He then asked if this money had been paid to the teachers at Mountain View School but not at Pine Hills.

Mr. Unger said that is correct and this is a matter of negotiation at Pine Hills. The negotiation is dealing with the holidays and sick leaves.

Senator Regan stated that as she understands that they receive the money as a trade off for extending their school year but she wondered if the court told them to pay it. "Did not the court rule that they were state employees?"

Mr. Unger replied that the Supreme Court did not address the issue of compensation. Their school year was extended 20 days but they do not have to be on the job more, they are identifying 10 of those days as holidays and 11 of those days as vacation days and we are paying the salaries that was appropriated by the last session.

Senator Regan then asked if the teachers receive tenure as state employees and not as teachers.

Mr. Unger replied that the position that the Department has taken is that after six months they have tenure.

Senator Regan repeated her question, "Do they have tenure after six months as teachers or as state employees?"

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Mr. Unger replied that they do not come under the tenure laws as teachers.

Senator Regan then ask Mr. Unger why these teachers were not being paid as state employees.

Mr. Unger stated that the teachers are working 1480 hours and they are receiving the salary. If we were to give them this money now we would be overspending our budget. The Governor's budget office is aware of this issue and have told the Department based on this bill, that the Department could go back to them and talk about the funding issue. If this bill does not pass we are liable for their vacation pay. It is not like other state employees or schools because when the teacher is gone their position must be filled with a substitute teacher.

Closing by Sponsor:

Senator Boylan pointed out to the committee that it was obvious that he sponsored this bill by request. Mr. Unger had to take all the heat, because the legal staff from the Department of the Family Services did not show up. This shows the credibility of the people who asked for this bill. He stated that he was sorry it happened this way.

HEARING ON SB 292

Presentation and Opening Statement by Sponsor:

SENATOR H. W. "SWEDE" HAMMOND, Senate District #9, reminded the committee that they had seen this bill many times before and he said he has been testifying for this bill since 1981. This bill would cause students who are enrolled in the WICHI WAMI or the Minnesota Rural Dentistry programs to have to come back to the state of Montana and work for three years or they would have the option to pay back 25% of the additional cost that the state has put out for them at a rate of 5% and the payments would not begin until after the time they have finished their internship. This was done in order to make sure that these people would be established in a practice and would pay back a portion of it.

Now in other states around Montana, for example, Arizona established a practice similar to this in 1953 where they give one year of service per each year of support which amounts to three years or they will pay back 50% plus the interest in the date completed. Colorado in 1978 established a service requirement of one year for each year

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of support or a pay back of 100% plus interest after one year of grace. Idaho established a program in 1980 for the WICHI & WAMI medical students to pay \$3,136 each year while attending medical school. Nevada in 1977, paid 25% with no interest or 25% with interest from the date of entry plus 3 years of service or they pay the remaining 75%. Wyoming in 1975 established a program where the WICHI medical students pay \$1,000 each year while in school plus three years in service or they pay 100% back at no interest.

He stated that when he started with this program he said it was evident to him that funds were getting tighter and tighter and he wanted to make sure that these people would have the opportunity to attend schools that are not provided for them in Montana. Two slots were cut back last session in the WICHI Dentistry program, now most of the payment for this has come from the interest and income from the education trust fund. This fund is almost depleted and so it is getting to the point where it will all have to be funded out of the general fund.

Senator Hammond went on to say that he had hoped that this would do two things; one, that it would increase the number of doctors that do come back to Montana and two, when he talked to students in 1981 they all said they would be glad to come back and serve. Senator Hammond told them that he thought they should have another option, your situation may change a great deal between now and then and you may be uncomfortable and it may not be feasible to come back and so it was provided that they get an option to pay instead.

List of Testifying Opponents and What Group they Represent:

JACK NOBLE, Deputy Commissioner for Management & Fiscal Affairs  
BRIAN HARLIN, The Associated Students of Montana State University  
TISA STEVENSON, 1st year WAMI student, Montana State University  
MICHAEL MINIETY, Montana State University  
JAN LOGAN, Montana State University  
DEBORAH GARRITY, Montana State University  
DR. RON LOGAN, Dillon, Montana  
HEIDI HAUGE, Montana State University  
JIM AHRENS, Montana Hospital Association  
DR. JACK MCMAHAN, Montana Hospital Association  
TERRY MINOW, The Montana Federation of Teachers  
ALLEN KELLY, Montana State University  
DR. STEVEN GUGGENHEIM, Director of the WAMI Program  
Montana State University

Testimony:

Jack Noble stated that he was speaking on behalf of The Board of Regents and they oppose SB 292. (See Exhibit #1)

BRIAN HARLIN stated that he and the ASMSU rise in opposition to SB 292. He said that they feel this bill is inequitable to the medical students and it is against the reason why the program was created and it is a discouragement for the future success of the program and this is going to be too small of a solution for too big of a problem.

(See Exhibit #2)

TISA STEVENSON stated that she was a first year medical student in the WAMI program. She said that she had the opportunity to meet several of the committee members a couple of years ago when she was a premedical student. So many people ask why we were fighting SB 292 because this is not going to affect you, you are free and clear since the bill does not apply to current students. The reason why we are here is because we believe in the WAMI program in particular, and we believe in the quality of education in the state of Montana and we realize that if this bill were to come into effect, Montana medical students would be expected to pay more for public medical education than any other students in the nation.

She pointed out that she had been accepted into medical school elsewhere and if this bill had been in effect when she was accepted into medical school, she would not be in the WAMI program now. Also there are other solutions but this bill just is not it.

MICHAEL MINIETY stated he was also a student at MSU in the WAMI program. He said that he had been a life long resident of this state and it has always been his intention to remain in this state on completion of his degree. There are several things about this bill he said that disturbed him, it would make Montana students pay the most of any medical student in the United States for public medical education and it disturbs him because it precludes people seeking military scholarships and public health scholarships. If a student has a prior service agreement and there is three years before payment of this then you can not apply for a public health scholarship. Also he stated if this bill would have been in effect he stated when he was considering medical school (because he is going to school strictly on student loans) he would have considered going to some other place.

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JAN LOGAN said that she was presently an undergraduate student at MSU and she recently applied to the WAMI program. She said she did a lot of planning to go to Washington State and it is risky getting a medical education considering SB 292. Right now they are in a better position to consider a different state. This bill is discriminatory because it singles out medical students, veterinarian students, and dentistry students and does not attack any other post graduate studies that are funded by the government and have no pay back programs. It also attacks those that are not financially able to make other choices.

DEBORAH GARRITY, a senior at MSU, stated that the average debt of the medical students is \$100,000 and finding out about the WAMI program was the feasible thing for her to continue her medical school because she could come back to Montana and work. If SB 292 passes it will not be feasible for us to come back here and Montana does need doctors in the small towns. There will be no way to make a living and pay this back. We want to be doctors and come back to Montana. This bill is defeating the purpose of the WAMI program which is to get doctors back into Montana.

DR. RON LOGE from Dillon, Montana, stated that he did not have any strings attached to the WAMI program but he said he is very interested in rural medicine in state of Montana. He is President of the Montana Society of Internal Medicine and he was ask by the AMA to speak to this issue.

He went on to say the rural health care is in a real crisis state in the United States especially in Montana. The 1980 figures suggested that there were 66 million rural Americans of which 26 million were under serviced medically. The average number of physicians in Montana is about 15 doctors per 10,000 people. When we think of the urban areas in Montana and the number of physicians that are in these areas, there are maybe 2 to 6 physicians per 10,000 in the rural areas. In Eastern Montana there are fewer physicians for the same population base as western Montana in fact in eastern Montana they have trouble retaining physicians. Senator Melcher's senate committee on aging declared that in the next five years, in rural areas there will probably be an average of a 25% drop out of physicians in these areas. This is because the of retiring general practitioners and lack of replacements.

He said that this bill was a negative incentive to filling the needs in rural Montana and he said he realizes the sponsor of this bill conceptualizes this bill as being an opportunity to fill these slots in the rural areas, but he pointed out that the students career choices hinge on the

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cost of their education. The number of students applying to medical school compared to fifteen years ago is significantly lower. Students are no longer looking at medicine as a good career to get into because of negative publicity on malpractice, the high cost of education, and the loss of eight years of production time. Internship slots are not being filled for primary care positions because students look to those positions as situations where there are no long-term financial rewards.

He concluded that this bill will not help these students get back to the rural areas in Montana. In Malta last week they had to pay \$200,000 for a "rent a physician." Think of the financial impact of these communities. Positive incentives must be planned in the rural areas where they could provide scholarships, etc.

HEIDI HAUGE, a senior at MSU, stated that going into medicine has been a goal of hers for a long time and she started working towards it under the assumption that the WAMI program would remain as it is today. A big factor for her is cost because she is putting herself through school. Incurring a large debt would keep her from returning to Montana.

JIM AHRENS said that very few states do this and students have the choices of going to several different states, if one student leaves the state and does not come back because this is an added burden then we have made it harmful for all the people in the state. It is difficult to bring a physician into the rural areas, so even though it sounds like we are bringing back a physician to do service in the communities it rarely works. Hospitals have tried this and if somebody is not satisfied you can not force them to come back to where they do not want to be. The point is that this extra burden causes people to not come back and we are all the worse for it.

DR. JACK MCMAHAN stated that the Montana Medical Association is opposed to this bill. He stated that two years ago they suggested that if the fiscal problems were such that it was necessary for students to pay a greater share of their education, if this should be extended broadly across all the students in this state. This state educates engineers, pharmacists, teachers and many others and this expenditure could be considered a loss to the state, but most of us would consider it a benefit. If it is considered a loss to the state then a percentage could be taken from each dollar per each student and make a determination that hence forth the student will pay this percentage of their educational costs and spread it across the board. To single out physicians, dentists or veterinarians and have them solely

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being involved in the pay back, is inappropriate.

TERRY MINOW from MFT stated that they represent faculty at Northern Montana College, Western Montana College and U of M and they would simply like to go on record in opposition to SB 292.

ALLEN KELLY, a senior at MSU, said that he is on the waiting list for WAMI. If necessary he said he would go to another school rather than sign this agreement and would go to school in Nevada. He said it would be in his best interest to go to a urban area to pay back his loans quickly and he would not have to sign an agreement with the state of Montana.

DR. STEVEN GUGGENHEIM pointed out that he understood the intent of this legislation as it addresses the programs that are inter state contacts for education, but when talking about such a variety of academic programs under one bill, it gets complicated. The one clarification that he wanted to make in regard to medicine was that it is true that a few western states have these arrangements for one or another of these pay back programs but very few have arrangements for medicine. "Wyoming has a situation that is very strange in terms of pay back in medicine because Wyoming funds in the millions of dollars, family residency programs." Students who have graduated from programs that have been supported by the state in medicine then go back to these states and enroll in these programs and this counts ironically as a service pay back even though it is further expense to the state. So really there is nothing in the western states like this in medicine.

There is an assumption that we are facing in our financing of medical education, and that is that our students are not doing enough and the state is doing too much. Dr. Guggenheim stated that he disagreed with this presumption because the average indebtedness of WAMI students on completion of medical school is \$35,000, and this pay back legislation could raise the average to \$60,000 and the total to \$100,000 in many cases. He feels that the state is not doing too much. He referred to a study done in 1980 about the per resident expenditure for medical education in the United States and in the west there was only one state spending less money than Montana. Also if any state is looked at, a certain percentage of their students are going to public medical schools and a certain percentage are going to private medical schools. In Montana approximately 50% of medical students are supported by the state. In other states that figure is much higher. The state is doing what is appropriate and the students are doing what is appropriate.

SENATE COMMITTEE ON EDUCATION

FEBRUARY 13, 1989

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In conclusion, he said that insurance is saving our health problems in Montana, which are basically primary problems. Our residents are our best hope for solving these problems. So what we should do is to encourage these students to go into the kind of medicine which will motivate them to become primary care physicians which would be useful in the rural areas. This is exactly what WAMI does now, 75% of the graduates go into primary care. This is a positive incentive for the students.

Questions From Committee Members:

Senator Blaylock asked that all the students that testified raise their hand if they were from "medical families." No one raised their hand.

Senator Regan asked Michael Miniety why he could not accept a scholarship from public health or a military plan if he had a commitment to Montana.

Mr. Miniety responded that if the student has to pay back time to Montana these program also have pay back plans. If you are already indebted to a state this makes the student ineligible to receive these other scholarships.

Closing by the Sponsor:

Senator Hammond closed by stating that he had helped many students become doctors and he is not trying to discredit the WICHI WAMI program and he certainly is not. The only disagreement he has had with the program is when a student is being supported by Montana taxpayers and has not graduated from high school in Montana.

He went on to say that the testimony given about having to pay back when they have already applied for this program and he pointed out that these people will not have to pay back their funds. It is difficult to understand why some say they would come back to Montana and get less for what they are doing and therefore could not pay what you may owe. If these people come back to Montana they do not owe anything this is the end of the obligation.

Mr. Noble referred to this as being a long time process in order to get this money back as far as the state is concerned. Senator Hammond pointed out that this is so only because there has been an increase of time granted to pay back the money.

SENATE COMMITTEE ON EDUCATION  
FEBRUARY 13, 1989  
Page 19 of 19

Senator Hammond said that he served on the Governor's task force trying to solve the problem of liability insurance for doctors, therefore he said he was aware of the shortage of doctors and knows of this problem in rural areas. Many doctors have told him that this program would help in bringing doctors to Montana. Once they were here many would like it. The debt is varied, but this is a small amount compared to many young people going into business. This legislature has never learned how to tax education, professional people seem to be immune from this where people going into business have to face this along with the expense of starting their businesses.

He stated that he is not singling out any particular profession and he said his intent from the beginning was to make sure this program continues. There is talk about necessary cut backs and some responsibility should be accepted to pay back some of the educational cost and coming back to Montana.

He concluded by asking the committee to give SB 292 a do pass.

ADJOURNMENT

Adjournment At: 2:55 pm

  
\_\_\_\_\_  
Senator H. W. Hammond

HH/jh

Senmin.213

ROLL CALL

## EDUCATION

## COMMITTEE

51<sup>st</sup> LEGISLATIVE SESSION -- 1989

Date 2-13-89

Each day attach to minutes.

SENATE EDUCATION  
EXHIBIT NO. # 1  
DATE 2-13-89  
BILL NO. SB 378

Mr. Chairman & Committee Members:

It is an honor to come before your committee this afternoon to testify in regard to Senate Bill # 378. I am Karen Youso, a parent and President of Parents for the Abolition of Violence in Education, an organization dedicated to collecting and disseminating information regarding the uses of corporal punishment in the schools.

Our organization is in support of the abolition of the use of corporal punishment in Montana schools <sup>Insert #1</sup> because it is injurious to the physical and psychological welfare of children, because corporal punishment is a discriminatory practice and denies children the basic right of protection from personal injury, and we are in support of the abolition of corporal punishment because it is unnecessary and irrelevant to modern educational practices. We support SB# 378 because it intends to protect the physical and psychological welfare of children while in attendance at school. We support SB# 378 because it intends to return to children the basic rights that are being denied under the current statute and we support SB# 378 because it establishes a definition of corporal punishment and establishes a guideline for educators who may need to employ physical restraint in gaining control of students who may exhibit aggressive behavior.

The current Montana statute (Annotated Code 20-4-302) which allows the infliction of corporal punishment in Montana schools is the only instance in which the government of Montana sanctions the use of violence against children. Children in mental institutions are protect-

ed against sanctioned corporal punishment. Children in juvenile correctional facilities are protected against the infliction of sanctioned corporal punishment. Children in licensed day care centers and children in Head Start programs, which are federally funded, are protected against sanctioned corporal punishment and children placed in Montana foster homes are protected against sanctioned corporal punishment.

The innocuous word "paddling", which Webster's Dictionary defines as meaning "to beat by a paddle", has long been touted as an acceptable means of discipline. However, children who have and continue to be "paddled" face injuries which can include welts, slight bruises, hematomas, hemorrhaging, blood clots, permanent kidney damage, severe crippling, broken bones and death. There are no universities which instruct future educators as to the correct manner of wielding a "paddle" and the cases resulting in injuries are totally unpredictable. Corporal punishment also includes the practices of slapping, kicking, shoving, pulling hair, denying bathroom privileges and making children assume uncomfortable positions for long periods of time. These practices have the potential for being as equally injurious to the physical welfare of children, but the psychological damage that occurs is usually more prevalent than physical damage. We are in support of SB# 378 which intends to protect school children from physical and psychological abuses

Data and research which has been done over the past several decades clearly indicate that minority, poor white children, children who are from abusive homes and children who are learning disabled are inflicted with corporal punishment at a much higher rate than are other children. Research indicates that male students are corporally punished up to ten times more frequently than female students and also that the older students, who might be physically threatening, are not the ones being hit. It is the smaller and younger children who are most often controlled by the infliction of pain. By law certain acts of physical force constitute assault. Montana statute (Annotated Code 45-5-201) declares that "assault occurs if a person purposely or knowingly causes bodily injury to another." Attorney General Mike Greeley, (of the Ted Schwinden administration), cited that "the definition of criminal assault applies to all persons regardless of their status as a parent or a school superintendent". There is no moral justification for decriminalizing an act simply because the victim is a student in attendance at an educational institution. We are in support of SB# 378 which intends to grant to children the basic right of individual dignity and the right of protection from personal injury.

As an advocate for the banning of corporal punishment in Montana schools I am not advocating a lack of discipline on the part of our educators, rather I am asking that they seek a more humane and caring method of discipline. Good educators don't rely on the school system to ensure respect from their students. Good educators achieve the

goal of education without the assistance of corporal punishment and good educators know they can accomplish more by praising students, by rewarding students, by restricting privileges of unruly students, by separating unruly students from their audiences, by giving out extra academic work and by consulting students and parents, then by inflicting pain. The responsibility of education is a two way street. Educators have the responsibility to make education relevant and interesting and students have the responsibility to attend classes, to study and to learn. <sup>INSERT #2</sup> There are 12 states in this nation which have abolished corporal punishment. Twelve states whose governments have acknowledged that corporal punishment is unnecessary. Montana officials have every obligation to take from the schools the opportunity to physically and psychologically injure students. There is no way to effectively regulate the use of corporal punishment so that it is more palatable. Do we regulate the size of the paddle, the number of strokes, the number of poor children or black children, the amount of pain inflicted, and has an educator gone too far when a child cries, when a student is bruised or even when emergency room treatment is required? We are in support of the abolition of corporal punishment because it degrades the educational profession. <sup>Insert #3</sup> We are in support of SB# 378 because it intends to allow schools to take a supporting role in teaching children to comprehend the true meaning behind the rights, responsibilities and dignities of American citizenship and democracy and we are in support of SB# 378 because it is constitutionally correct in that it intends to "enhance the protection" of persons under the age of 18 years.

The following incidences were reported to members of our organization by parents of the children, after having been granted confidentiality.

In southern Montana a 5th grade student raised his hand and offered disagreement to a statement that the teacher had just presented to the class. The teacher walked over to the desk, placed his hands around the boy's neck and jerked the student out of his desk. The teacher then began to violently shake the child before sending him to the office for disciplinary actions. No action was taken against this teacher.

In western Montana a 3rd grade student was bound to a chair for the offense of fidgetting. No action was taken against this teacher.

In southwestern Montana a first grade "learning disabled" child was called to the front of the classroom for failing to follow directions properly. The teacher hit the child and instructed him to "stop being so dumb". The child went home and informed his parent of the incident. The parent then called the school and set up a meeting for the following afternoon. The following morning the teacher again called the child to the front of the class and berated him in front of his peers because he had told his mother of the incident. The meeting took place and the teacher refused to apologize. This was not the first complaint against this teacher. Although the parent asked that the child be placed in a different classroom, the action was denied.

In southeastern Montana an 11 year old was forced to stand by and helplessly listen as his 12 year old school mate was beaten. The pleasure that the principal had in humiliating the student was evident in his calling out after each blow, "there, how do you like that". Although the parent of the 11 year old pointed out that there was no witness in the room, no action was taken against this administrator.

In northern Montana a 4th grade student was assumed to be whispering in class. The teacher walked back to her desk, grabbed her by the arm, jerked her out of her desk and began to violently shake the child. In the frenzy of his anger the young girl's head was slammed against the wall and medical documents were presented showing that skin had been torn in several areas on both arms. This was not the first complaint against this teacher and although the family asked only that the child be moved to another classroom, they were denied. No action taken against this teacher.

In central Montana a first grade student was being yelled at by her teacher. The child lost control of herself and wet her pants. The teacher then called the child to the front of the room and belittled her in front of her classmates. The teacher then threatened to beat the child if it happened again. No action taken.

In southwestern Montana an 11 year old "learning disabled" student was playing on the playground at recess. The principal on duty walked up behind the child, placed one hand over each of the student's ears and bodily lifted the child off the ground. Totally surprised by the action, the student reached up in self defense and

grabbed at the principal's hands in an effort to loose the painful hold. This student was suspended for being defiant. When the parent asked the reason for the physical discipline, the principal admitted that he had not witnessed anything but had "felt" that the child was involved in teasing another student. No action taken.

In other areas around the state two male students were rammed into lockers, a young male was kicked in the back, a young girl was slapped for using the teacher's stapler, a young male was slapped for daydreaming, a young male was beaten for not completing his homework and a young male was jerked out of his desk, slammed back into his chair and violently shoved into a wall and a young male was sitting in his desk when the teacher walked over and shoved the student and the desk onto the floor, the reason for the action was that the boy needed to clean his desk and the teacher felt this would make certain that he cleaned it.

We oppose corporal punishment because it is injurious, because it is discriminatory, because it denies children basic constitutional rights, because it is unnecessary and because it degrades the teaching profession.

I thank you for allowing me to present our views regarding corporal punishment in the schools, I thank you for allowing me the opportunity to present parent informations that were reported to our members and I thank you for allowing me to testify in support of SB# 378.

Having a law on the books protecting abused spouses, does not mean that wives are no longer abused. Having a law on the books protecting animals from cruelty does not mean that animals are not hurt. And having a law on the books protecting children against corporal punishment inflicted by educators does not mean that the practice will cease in the near future, but it does mean that parents and schools can begin to work together on the issue of protecting children and eradicating child abuse in our society instead of working against each other as is happening under the current law.

INSERT #1

There are over 25 national organizations which oppose the use of corporal punishment in the schools. I have included a list of most of those organizations which include:

The American Medical Association which states "The infliction of pain or discomfort, however minor is not a desirable method of communicating with children. In addition, the official sanction of corporal punishment imparts approval to actions that have the potential for serious injury. The board believes that the use of corporal punishment by educational and other institution personnel is in opposition to the AMA's declared intent to attack the widespread problem of child abuse and therefore opposes its use in our nation's schools."

The American Bar Association resolved to "oppose corporal punishment in institutions where children are cared for or educated and urges that state laws which permit such corporal punishment be amended accordingly." I also have a letter from the Montana Bar Assoc. which states that on February 12, 1988, the State Bar went on record in support of efforts to prohibit the use of corporal punishment in Montana schools.

The American Academy of Pediatrics states they are opposed to the use of corporal punishment in schools and urges all parents, educators, school board members, legislators and other adults to seek the abandonment of corporal punishment and its legal prohibition in all states. Although the Montana Chapter of the American Pediatrics has not discussed this issue, I do have a letter from Dr. James Feist, President of the Montana Chapter stating "I feel very strongly that the Montana chapter would be, as is the national AAP, against corporeal punishment in schools." And I also have a letter of support from Dr. Jeffrey Strickler a practicing pediatrician and former Vice Chairman of Helena District #1 School Board which concurs with Dr. Feist's statement.

The National Education Association - M	Unitarian Universalist
The American Bar Association - M	General Assembly
The American Psychological Association - M	Friends Committee on
The National Parent Teachers Association - M	Legislation
The American Civil Liberties Union - M	National Committee for
The National Mental Health Assoc. - M	the Prevention of
Council for Exceptional Children	Child Abuse - M
Society for Adolescent Medicine	National Indian Education Association
American Public Health Association	National Assoc. of School
National Association of Social Workers - M	Psychologists - M
Association for Humanistic Education	Assoc. for Childhood
American Orthopsychiatric Association	Education International
American Assoc. for Counseling & Development	American Assoc. for Protecting Children
American Humanist Association	National Council of Teachers
National Assoc. for Advancement of Colored	of English
People	Child Welfare League of
U.S. Department of Defense/Office of Dependent	America
Schools Overseas	



# STATE BAR OF MONTANA

46 NORTH LAST CHANCE GULCH

P O. BOX 577

HELENA, MONTANA 59624

(406) 442-7660

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\* Executive Committee

Executive Director

George L. Boushman

November 7, 1988

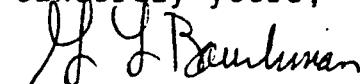
Ms. Karen Youso  
President  
P A V E  
Box 21  
Hingham, MT 59528

Dear Ms. Youso:

Thank you for your letter of October 31, 1988.

I am enclosing a copy of a letter dated February 16, 1988, to Pat Grassl, indicating the State Bar of Montana's support for prohibition of corporal punishment in public schools.

Sincerely yours,



GEORGE L. BOUSLIMAN  
Executive Director

GLB/gdl  
Enc.

# STATE BAR OF MONTANA

46 NORTH LAST CHANCE GULCH

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ABA DELEGATE  
Sherman V. Lake  
P.O. Box 7909  
Missoula, Montana 59807

Executive Committee

Barbara Dwyer

February 16, 1988

Ms. Pat Grassl  
Chair - Best Practices  
P.O. Box 14  
Clancy, MT 59634

Dear Ms. Grassl:

This is in reply to your letter of January 15, 1988 concerning corporal punishment in public schools.

Please be advised that the Executive Committee of the State Bar of Montana, meeting on February 12, 1988, went on record in support of efforts to prohibit the use of corporal punishment in our schools.

Please let us know if we can be of further assistance.

Sincerely yours,

*George L. Bousliman*

GEORGE L. BOUSLIMAN  
Executive Director

GLB/sp

American  
Academy of  
Pediatrics



Montana Chapter

President  
James R. Feist, M.D. ✓  
East Beall  
an, MT 59715  
7-5123

President  
J. M. Eichner, M.D. ✓  
Box 5012  
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Secretary-Treasurer  
Alph K. Campbell, M.D. ✓  
Miley Point  
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06/887-2565

Kathy White, Vice President  
P.A.V.E.  
Box 21  
Hingham MT 59528

Dear Ms. White:

This letter is to respond to your November 8th letter regarding corporeal punishment in schools. As you stated correctly, the AAP has taken a stand against corporeal punishment in schools because it is felt it is counterproductive to a good working relationship. Alternative methods of self-control and responsible behavior are encouraged. There has not been a specific discussion in the Montana chapter on this issue but I feel very strongly that the Montana chapter would be, as is the national AAP is, against corporeal punishment in schools.

Sincerely yours,

A handwritten signature in black ink, appearing to read "J. Feist".

James R. Feist, M.D.

JRF/cbr

# HELENA PEDIATRIC CLINIC

1000 N. Gardner St.  
P.O. Box 21  
Jeffrey H. Strickler, MD  
1600 N. Montana Ave.  
Helena, Montana 59601  
(406) 467-2211

February 6, 1989

Karen Youso  
Box 21  
Hingham, MT 59528

Dear Ms. Youso:

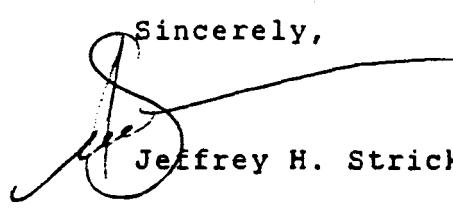
As a practicing pediatrician and a former Vice Chairman of Helena District #1 School Board, I would like to commend your efforts to eliminate corporal punishment in the schools (LC #1543).

I have enclosed the recommendation of the Committee on School Health from the American Academy of Pediatrics which states formal opposition to the use of corporal punishment in schools. This was written in 1984 and has been updated yearly. It is a current position statement.

Whereas the Montana Chapter of the American Academy of Pediatrics has not specifically dealt with this question, I am sure you could ask Dr. James Feist of Bozeman (587-5123) to ask for a Board consensus on this bill. Since it is compatible with National AAP positions, the State Executive Board could endorse it without having a state meeting.

Good luck to you in your lobbyings.

Sincerely,



Jeffrey H. Strickler, MD, FAAP

JHS/djf

✓

# AMERICAN ACADEMY OF PEDIATRICS

## Committee on School Health

### Corporal Punishment in Schools (RE4904)

Since 1978, various committees of the American Academy of Pediatrics have intermittently addressed the question of corporal punishment and discipline.

A review of recent psychiatric, psychologic, and educational literature continues to accumulate evidence in opposition to corporal punishment in schools, although 47 states still have legislation permitting this management.

The American Academy of Pediatrics is opposed to the use of corporal punishment in schools, and urges all parents, educators, school board members, legislators, and other adults to seek the abandonment of corporal punishment and its legal prohibition in all states.

Employment of alternative methods<sup>1,2</sup> for implementation of self-control and responsible behavior is recommended.

#### COMMITTEE ON SCHOOL HEALTH, 1982-1983

J. Ward Stackpole, MD, Chairman  
 Conrad L. Andringa, MD  
 Michael A. Donlan, MD  
 Leonard L. Kishner, MD  
 Kenneth D. Rogers, MD  
 Maxine M. Sehring, MD  
 Joseph R. Zanga, MD

This statement has been approved by the Council on Child and Adolescent Health.

PEDIATRICS (ISSN 0031 4005). Copyright © 1984 by the American Academy of Pediatrics.

#### Liaison Representatives

Janice Hutchinson, MD, AMA  
 Betty McGinnis, NAPNA/P  
 Marjorie Hughes, MD, ASHA  
 Charles Zimont, MD, AAFP  
 Michael A. Hogan, MD

#### Section on Child Development

#### REFERENCES

1. American Academy of Pediatrics: Committee on Psychosocial Aspects of Child and Family Health: The pediatrician's role in discipline. *Pediatrics* 1983;72:373
2. Christophersen ER: The pediatrician and parental discipline. *Pediatrics* 1980;66:641

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*Stephen A. Rothstein, M.D.*

FAMILY AND PREVENTIVE MEDICINE

(415) 838-1851

April 21, 1986

SUBJECT: CORPORAL PUNISHMENT TO THE BUTTOCKS

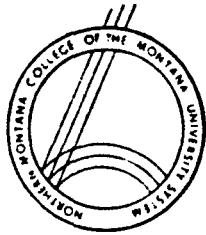
To Whom It May Concern:

The most common injury we see is that of a contusion involving the skin and subcutaneous tissues. This results in rupture of blood vessels and bleeding into the tissues. A more severe blow can cause a contusion or hematoma within the musculature of the buttocks resulting in significantly more pain and discomfort and temporary impairment in the use of the involved leg. Bleeding in and around the muscles surrounding the sciatic nerve, the largest nerve in the body, located deep in the buttocks, could conceivably result in damage to that nerve. Other injuries which need to be considered would be injuries to the hands or arms of a child that tried to protect or defend himself while receiving blows to the buttocks, and contusions or hematomas to the genitalia.

Sincerely,

*Stephen A. Rothstein, M.D.*  
Stephen A. Rothstein, M.D.  
Diplomate American College Of Emergency Physicians

SAR/pr



INSERT #2

## **NORTHERN MONTANA COLLEGE**

## Montana University System

P.O. BOX 7751 HAYWARD, MT 59501 (406) 265-3720

OFFICE OF THE PRESIDENT

October 20, 1988

Karen Youso  
Parents for the Abolition of  
Violence in Education  
Box 21  
Hingham, MT 59528

Dear Karen,

Thank you for your informative letter and attached information concerning corporal punishment in Montana schools.

Although I am not personally versed in Montana law, I am an educator as well as a college president. My years as a teacher and coach as well as my service as an administrator have helped make me cognizant of the importance of tempering discipline.

As the chief officer of an institution that trains tomorrow's teachers, I know how important it is to make our students sentative to child abuse while making them cognizant of the need to maintain control in the classroom and on the playing field. That fine line between restraint, punishment, and abuse is one that must be approached deliberately and with great forthought.

We, as teachers, administrators, and as parents, must learn and continue to develop ways we can deal with people both young and old in a non-violent manner. It is important as a society that we work toward a peaceful resolution of conflict.

Sincerely,

*Beichman*  
Bill Merwin

Bill Merwin  
President



DEPARTMENT OF HEALTH &amp; HUMAN SERVICES

Public Health Service

HEALTH RESOURCES AND SERVICES ADMINISTRATIONBureau of Maternal and Child Health  
and Resources Development

Rockville MD 20857

SEP 30 1988

Ms. Rhonda R. Bryce  
912 Pierce Street  
Fairfield, California 94533

Dear Ms. Bryce:

This is in response to your letter of September 9 to the Surgeon General expressing concern about corporal punishment of children in public schools.

We share your concern about this important issue. In 1985, the Surgeon General's Workshop on Violence and Public Health was convened to review the effect of interpersonal violence and its consequences on domestic life in our country. A report is enclosed for your information.

As you know, the Nation's children are not immune to assault and batterings from parents or caretakers in position of authority or power. A recommendation of the work group focused on child abuse prevention was that "... the American people should come to understand and agree that corporal punishment of children should be abolished." In this recommendation, there was recognition of the disturbing fact that corporal punishment of children actually interferes with the process of learning and with their optimal development as socially responsible adults. We feel it is important for public health workers, teachers, and others concerned for the emotional and physical health of children and youth to support the adoption of alternative methods for the achievement of self-control and responsible behavior in children and adolescents.

There are 10 States with legislation prohibiting the use of corporal punishment in public schools. Several national professional associations have position statements on this issue, e.g., the National Committee on the Prevention of Child Abuse, the American Public Health Association, the Society for Adolescent Medicine, and the National Education Association.

INSERT #3

B You will probably hear that corporal punishment is used only as a last resort in those school systems that inflict pain upon children in order to control them. I am completely mystified by this statement for the simple reason that no state association nor any state government office that I contacted was able to inform me of which schools in this state do not advocate the use of corporal punishment. If there is no record kept of which school uses corporal punishment then it is difficult to understand how records are kept on last resort cases.

A You may also hear that corporal punishment and the right to determine its use is a local matter and the law should remain as it is. I think the American Psychological Association resolution states the response for this. The Assoc. states "Research has shown that to a considerable extent children learn by imitating the behavior of adults--and the use of corporal punishment by adults having authority over children is likely to train children to use physical violence to control behavior rather than rational persuasion, education and intelligent forms of reinforcement." Our local schools at this time have local control. A child who is beat in central Montana may move to southern Montana, or he may move out of state where he will use what he has learned to effect the state and the nation. Corporal punishment is not a local issue and the option to inflict pain and deny children their civil rights should not remain in the hands of "local control".

HARVARD UNIVERSITY  
DEPARTMENT OF PSYCHOLOGY

WILLIAM JAMES HALL  
33 KIRKLAND STREET  
CAMBRIDGE, MASSACHUSETTS 02138

October 18, 1988

Ms. Kathy White  
Box 65  
Hingham, MA 02043

Dear Ms. White:

The letter you have asked for is one of the things I have found it absolutely necessary to cut out of my life if I am to carry on at 84 with the things which are closer to my interest. I herewith give you permission to use my letter to Assemblyman Sam Farr in any way you wish.

Yours sincerely,

B.F. Skinner

B.F. Skinner

HARVARD UNIVERSITY  
DEPARTMENT OF PSYCHOLOGY

WILLIAM JAMES HALL  
33 KIRKLAND STREET  
CAMBRIDGE, MASSACHUSETTS 02138

September 16, 1986

Assemblyman Sam Farr  
Room 3120, State Capitol Building  
Sacramento, California 95814

Dear Assemblyman Farr:

I hear that fundamentalist groups are organizing a campaign against the bill to abolish corporal punishment in California schools, misrepresenting the bill by charging that it would prevent action against terrorism and other forms of violence on school property. Of course that is not true. (How ironic that people should take that line and use that kind of strategy when they claim to speak for a God of love and truth.) Measures need to be taken to control violence by students, but they need not be violent measures.

Punitive measures whether administered by police, teachers, spouses, or parents have well-known standard effects: (1) escape (education has its own name for that: truancy), (2) counterattack (vandalism of schools and attacks on teachers), and (3) apathy - a sullen do-nothing withdrawal. The more violent the punishment the more serious the byproducts. One of the immediate effects of the bill would be to encourage teachers to look at other ways of controlling their students, ways which in the long run would be much more effective.

The bill is a great step forward in educational practice and will open the way for other kinds of progress, not only in the elimination of corporal punishment but in the development of much more effective ways of teaching.

Yours respectfully,

B. F. Skinner

B. F. Skinner

BFS:km

# Corporal Punishment Around the World

## COUNTRIES

The following countries do not allow teachers to hit schoolchildren:

1793 Poland	1949 China	Dates Unknown:
1820 Netherlands	1950 Portugal	Iceland
1845 Luxembourg	1958 Sweden	Japan
1860 Italy	1967 Spain	Ecuador
1867 Belgium	1967 Denmark	Jordan
1870 Austria	1967 Cyprus	Qatar
1881 France	1970 Germany	Mauritius
1980 Finland	1970 Switzerland	Israel
1917 USSR	1982 Ireland	Phillipines
1923 Turkey	1986 United Kingdom (England, Scotland, Wales & N. Ireland)	Communist Bloc Countries
1936 Norway		

Countries still permitting school corporal punishment include the United States, Iran, Uganda, Canada (partly), Australia (banned in 70% of schools) and New Zealand.

## STATES

The following states have now banned corporal punishment, with movements to do so underway in many more:

California	New Jersey	Michigan
Hawaii	New York	
Maine	Rhode Island	
Massachusetts	Vermont	
New Hampshire	Nebraska	
	Wisconsin	

## CITIES

These major cities, in states that allow corporal punishment, have abolished it:

Albuquerque	Milwaukee	Salt Lake City
Atlanta	New Haven	Sault St. Marie
Baltimore	New Orleans	Anchorage
Battle Creek	Oakland	San Jose
Columbus*	Ottawa	Seattle
Chicago	Philadelphia	St. Louis
Dayton	Phoenix	Urbana

## WHY READ THIS BOOK?

Everyone who was spanked as a child — and who among us was not? — will feel the impulse to strike out at a child for behavior reminiscent of what we were punished for. That first thought was imprinted by the action-language of our infancy. And if we are under stress, the impulse will be acted on and may cause greater damage than we realize. Second thoughts, based on a greater civility that we learned later, are more likely to be better and more effective ways to guide the child into acceptable behavior.

## THINK TWICE:

# THE MEDICAL EFFECTS OF PHYSICAL PUNISHMENT

Lesli Taylor, M.D.  
Adah Maurer, Ph.D.

Illustrations by  
Marianna Grenadier



A publication of the California Medical Education and Research Foundation, prepared and edited by physician members of the California Medical Association

Index 479 - October 1985

## Corporal Punishment in our Schools

Corporal punishment is the use of pain, discomfort or physical force for the purpose of punishment. It has been used as a form of discipline in this country for more than 200 years. Recent movements have, however, identified corporal punishment as a form of child abuse and are working to prohibit this type of punishment in public and private schools. Corporal punishment in the military and in prisons, although once condoned, has been outlawed.

Evidence indicates that corporal punishment is still used regularly at every grade level in virtually all regions of this country. Although several states, cities and school districts have banned the practice of corporal punishment, many of these restrictions are ignored. The types of corporal punishment vary from state to state and school to school. Although generally thought to be restricted to spanking with a hand or a paddle, other forms continue to be reported, including striking with sticks, ropes, fists or belts, choking, throwing against walls or desks, dragging by the hair or arm, tying to heavy objects, forcing strenuous exercise and confinement in closets, vaults, storerooms or boxes.

The majority of corporal punishment incidents result in minor injuries, such as soreness and redness of the skin. Although injuries requiring medical attention are rare, the use of corporal punishment has the potential of causing injuries such as hematomas, ruptured blood vessels, nerve damage, muscle damage and brain hemorrhage. Such injuries may result in permanent structural damage and disability.

Equally as harmful and much more common than the physical effects are the psychological effects of corporal punishment. These include loss of self-esteem, increased anxiety and fear, feelings of helplessness and humiliation, stifled relationships with others, aggressive and self-destructive behavior and limited attention span, all of which may lead to deficient academic performance. Forms of noncorporal punishment

## Corporal punishment in schools

page 2

such as ridicule, name-calling and destructive criticism can result in many of the same psychological effects.

Although discipline is a major consideration in the administration of a school, the primary objective of the educational system is to prepare students to become healthy productive adults. Research concerning the effects of corporal punishment on the learning process has indicated that it is counterproductive to this goal. It increases disruptive behavior, hinders learning, is ineffective in maintaining order, develops aggressive hostility and teaches that "might is right."

Alternatives to corporal punishment are noncorporal punishment and positive disciplinary programs. Noncorporal punishment is administered when positive discipline fails and infractions of the rules occur. Types of nonphysical punishment are detention, chores, expulsion, discussion with students and parents, withdrawal of privileges, counseling, verbal reprimands and isolation, for the purpose of removing the student from the situation.

A more effective approach is a positive disciplinary program, incorporating activities that help teachers and administrators assume control and establish order with the cooperation of the students. Students receive rewards for controlling themselves. Examples of positive disciplinary activities are utilization of student input in the disciplinary policy, improvement of lines of communication, development of mutual respect between students and administrators and the modeling and reinforcement of good behavior.

Through these techniques, teachers and administrators can teach students to assume control of their behavior and take responsibility for their actions.

Prepared by the California Medical Association.  
Specific questions should be directed to your physician.

## Psychological and Physical Abuse in the Schools: A Paradigm for Understanding Post-traumatic Stress Disorder in Children and Youth

Irwin A. Hyman,<sup>1</sup> Wendy Zelikoff,<sup>1</sup> and  
Jacqueline Clarke<sup>2</sup>

*The literature on Post-Traumatic Stress Disorder (PTSD) in children is rather sparse. Most accounts describe only the aftereffects of horrendous traumas. Yet there is evidence that children are also vulnerable to a wider range of stressors than adults. Since the nosology for PTSD is based upon adult psychopathology, there is a need to examine the syndrome in light of current knowledge about development, psychopathology, and ecological factors in children's lives. The purpose of this paper is to present evidence that the pattern of symptoms of PTSD in children is different from those in adults. The paradigm presented was generated by work with children and youth who were the victims of excessively punitive disciplinary practices in schools. An updated overview of the literature on PTSD in children is presented. Case studies and retrospective data are offered in support of the need to differentiate child/adolescent PTSD from adult nosology and to understand the nature of PTSD when it occurs as a result of school related abuse.*

**KEY WORDS:** abuse in schools; effects of discipline; childhood stress; traumatic stress.

### INTRODUCTION

Most of the evidence regarding PTSD in children is related to exceptional stressors resulting in symptoms often similar, but not identical, to those observed in adults. Historically, psychiatric nosology for PTSD has been

<sup>1</sup>National Center for the Study of Corporal Punishment and Alternatives in the School, Temple University, Philadelphia, Pennsylvania 19122.

<sup>2</sup>Eastern State School and Hospital, Trevose, Pennsylvania.

**ARTICLE I****COMPACT WITH THE UNITED STATES****Article Cross-References**

Sovereignty and jurisdiction of state, 2-1-102.

Cession and retrocession of jurisdiction for various purposes, Title 2, ch. 1, part 2.

Jurisdiction on Indian lands, Title 2, ch. 1, part 3.

Railroads on Indian and military reservations, 69-14-538.

Consent of surface owner for strip mining — minerals owned by federal government in fee or trust for Indian tribe, 82-4-224.

Indian and federal water rights, Title 85, ch. 2, part 7.

Agreement with Indians concerning hunting and fishing on Flathead Indian Reservation, 87-1-228.

State-federal relationships regarding fish and wildlife, Title 87, ch. 1, part 7.

The Enabling Act, see vol. 1 of Annotations Federal Materials.

Ordinance No. 1, see vol. 1 of Annotations Federal Materials.

**Constitutional Convention Transcript Cross-References**

Adoption, Trans. 2931 through 2933.

Committee report, Vol. II 838 through 841, 1030 through 1032, 1037.

Debate — style and drafting report, Trans. 2567 through 2572, 2921.

Delegate proposals, Vol. I 99, 294.

Final consideration, Trans. 2570 through 2573.

Text as adopted, Vol. II 1087.

All provisions of the enabling act of Congress (approved February 22, 1889, 25 Stat. 676), as amended and of Ordinance No. 1, appended to the Constitution of the state of Montana and approved February 22, 1889, including the agreement and declaration that all lands owned or held by any Indian or Indian tribes shall remain under the absolute jurisdiction and control of the congress of the United States, continue in full force and effect until revoked by the consent of the United States and the people of Montana.

**ARTICLE II****DECLARATION OF RIGHTS****Section**

1. Popular sovereignty.
2. Self-government.
3. Inalienable rights.
4. Individual dignity.
5. Freedom of religion.
6. Freedom of assembly.
7. Freedom of speech, expression, and press.
8. Right of participation.
9. Right to know.
10. Right of privacy.
11. Searches and seizures.
12. Right to bear arms.
13. Right of suffrage.
14. Adult rights.
15. Rights of persons not adults.
16. The administration of justice.
17. Due process of law.
18. State subject to suit.
19. Habeas corpus.
20. Initiation of proceedings.
21. Bail.
22. Excessive sanctions.
23. Detention.
24. Rights of the accused.
25. Self-incrimination and double jeopardy.

# Black Students Get More Punishment

*Associated Press*

New York

Black students are twice as likely as white students to be suspended from school, physically punished by school authorities or labeled mentally retarded, a new study concludes.

Only 8 percent of youngsters in programs for gifted students are black, even though blacks make up 16 percent of the nation's enrollment, according to a report issued yesterday by the Boston-based National Coalition of Advocates for Students.

The study listed Oakland, Sacramento and San Francisco among school districts with high racial disparities.

It gives evidence of "the failure of schools to be peopled by adults who are skilled in handling students who are different in any sort of way," said Joan McCarty First, executive director of the coalition.

"Teachers often overreact to

blacks, especially black males. Interestingly, that's true even with black teachers," she said.

The report's findings were based on an analysis of biennial data published by the U.S. Department of Education's Office of Civil Rights in 1986, the latest year available.

The department examined figures from 3,378 school districts chosen to be representative of all the nation's school districts. The coalition study projected the rates at which students of different races suffered various school penalties.

Among the findings in the report:

■ Nationwide, 5.22 percent of black students received corporal punishment; 2.28 percent of whites and 2.05 percent of Hispanics suffered such discipline.

■ Nationwide, 9.07 percent of

blacks, 4.44 percent of Hispanics and 4.05 percent of whites were suspended from school.

Among the largest districts, San Francisco and Sacramento were listed among those with the biggest racial disparities in suspension rates.

■ Blacks nationwide were placed in special classes for the "educable mentally retarded" at a 2.3 percent rate; 0.87 percent of whites and 0.56 percent of Hispanics were similarly labeled.

■ Nationwide, 5.35 percent of white pupils get placed in gifted and talented programs, compared with 2.44 percent of blacks and 2.41 percent of Hispanics.

■ Oakland and San Francisco were listed among large school districts with the biggest black-white disparities in gifted-talented placements.

Monday, December 12, 1983

*San Francisco Chronicle*

From the files of  
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**CORPORAL PUNISHMENT OF SCHOOLCHILDREN:  
 ITS RELATIONSHIP  
 TO DISCRIMINATION AND SEXUAL MOLESTATION**

By Jordan Riek

There are two aspects of school corporal punishment which are rarely mentioned, but should be. They are its relationships to discrimination and to sexual molestation of children. Let's examine them in that order.

**DISCRIMINATION.** Current statistical data on school corporal punishment, along with abundant anecdotal evidence, confirms that minority and disadvantaged male children receive a disproportionately high percentage of school paddlings and that certain children are repeatedly singled out for such punishments. The implications are damning and our discussion could stop here.

But consider the effects of paddling on the children who are rarely or never paddled. These children are a captive audience for acts of violence against their less fortunate peers and, as such, are also victims. Many become anxious and depressed when they see their peers hurt while they are powerless to intervene. Some children become physically ill when they hear their abused peers crying. Out of fear or shame, they teach themselves to conceal any sign of their distress and eventually even learn to suppress their own conscious awareness of it. For boys especially, the suppression of empathy is equated with manliness.

They do this for survival. But something valuable is destroyed in the process--it is the child's instinctual capacity for empathy. When empathy with a suffering victim is driven out, contempt for the victim (discrimination) quickly, conveniently sneaks in.

While the paddling teacher may indeed achieve temporary obedience and order, that teacher should pause for a moment to consider what are the lasting effects of adult violence on the minds and hearts of children. Is it the proper role of the teacher to model the uses of physical aggression by the powerful against the weak and to desensitize children to human suffering? These inevitably are the by-

products of corporal punishment.

Some children deal with violence-caused inner turmoil by actively identifying with the perpetrator of the violence--an adult authority figure usually. Children who are cruel and who are bullies, with few or no exceptions, are imitating the behavior of adults they have observed at close range. These same children often develop into cruel, bullying adults.

Many children come to believe (and are encouraged to believe) that for a pupil to receive better treatment from teachers, and consequently to maintain better rapport with them, to perform better and be happier at school, is proof of that pupil's worthiness and natural superiority. Accordingly, for a pupil to be treated negatively conveys the message that that pupil is a bad person, that he or she "has it coming." If the perceived standard for who usually gets punished is based on economic status, ethnicity, race or gender, the lessons are chauvinism and bigotry.

In this light, school corporal punishment, accurately perceived by its victims as violent rejection, must be seen as a major factor in perpetuating an educationally deprived, psychologically damaged, alienated and angry underclass. In other words, pupil beating promotes discrimination.

**MOLESTATION.** The child who is subject to corporal punishment comes to believe that adults in positions of authority have absolute control over his or her body. Corporal punishment, which is usually carried out with the full cooperation of the child, requires a level of submissiveness unequaled by anything to be found in normal, healthy adult relationships.

The child trained to tolerate, even to expect, such treatment, will be relatively more vulnerable to all adult predators including pedophiles, sado-masochists, deviates who prey on runaways, procurers for the child pornography industry and perpetrators of incest--all of whom seek, first and foremost, a compliant victim. Corporal punishment, which is based on absolute compliance, nicely paves the way for these criminals.

[over]

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[continued]

Can we reasonably expect a child who obediently bends over for a beating on Monday to have the ability to say "no" to a molester on Tuesday?

The advocates for corporal punishment will dispute that there is any link between disciplinary beating and sexual assault. Their argument is self-serving at best and, to this writer, has the unmistakable flavor of denial. Significantly, children who have a history of sexual victimization by adults also have a history of violent physical subjugation by adults. This may well account for the confounding of normal sex drives with abnormal impulses to violent domination which we find in that most pathetic of all victims and most dangerous of all victimizers - the rapist.

The cycle of violence from one generation to the next, including sexual violence, is a well-documented phenomenon. Today's victim is the most likely candidate to become tomorrow's perpetrator.

Medical literature including and even predating Krafft-Ebing's Psychopathia Sexualis (1892) has linked physical violence toward children - particularly battering of the buttocks - with deviant sexual behavior. Johann Heinrich Meibom (1590-1655) and Ludovicus Coelius Richerius (1450-1525) were among the first people of medicine to recognize the connection and write about it. Modern research has only reinforced these early observations. Flagellant ('bondage & discipline') pornography - which has a large, dedicated clientele - feeds on the compulsive need of those who have been permanently psychologically damaged by violent 'discipline' during their formative years.

As Dr. Meibom noted in his treatise De Flagorum su in Re Veneria & Lumborum Renumque Officio, published in Leyden, 1629: "But what you could not so readily believe upon my Affirmation, was that there are Persons who are stimulated to Veneria by Strokes of Rods, and worked up into a flame of Lust by blows..." (pp. 5-6) ". . . A strange Instance what a Power the force of Education has in grafting inveterate ill Habits on our Morals." (pp. 14-15)

Currently, most public child-protection agency personnel recognize that pedophiles and sado-masochists infiltrate professions in which they are given absolute authority over their intended victims. Schools that allow corporal punishment, in effect, are offering an open invitation to adults with profound psycho-sexual disorders to work their mischief on children.

All American educators should heed the lesson now being learned by some Catholic educators. In a confidential report to U.S. Catholic bishops, prepared by the late Rev. Michael Peterson, former president of St. Luke Institute, Rev. Thomas P. Doyle, who was the secretary for the Apostolic Nunciature and New Orleans attorney F. Ray Mouton, the authors estimate that the Catholic Church faces more than \$1 billion in legal claims through 1995 because of lawsuits filed by the parents of sexually molested children. According to the report, some dioceses have lost their liability insurance coverage and many have had clauses added by their insurers excluding coverage in child-molesting cases.

In conclusion, I would like to express my hope that educators will recognize that now is the right time to cease pupil beating. The rest of the civilized world has already done so to good effect. The removal of instruments of pain from the hands of teachers will send a clear message to everyone: to hurt, to terrorize, to humiliate children are wrong. Such treatment is counterproductive and dangerous. It is immoral. The message to children will be: you have a right to be safe in body and mind. The message to pupil beaters will be: dump your weapons and learn to teach. The message to child abusers in the general community will be: you can no longer cite the conduct of 'experts' as your excuse.

The banning of corporal punishment in both public and private schools will extend to schoolchildren the same protection against battery that all other citizens take for granted. And the true professionals among teachers will welcome this reform. It is a first and essential step in elevating their profession to its rightful position as a community role model for the humane, caring and dignified treatment of all children.

\*\*\*

Feb. 03, 1988

To whom it may concern

My son [REDACTED] was in P.E. class with [REDACTED] as a teacher. This was in the school year 1986-1987. [REDACTED] was in 8th grade.

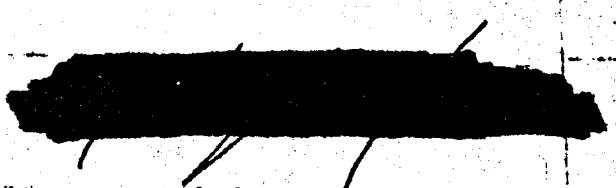
My son came home after school and told me his arm hurt. He showed me his arm and it was bruised [REDACTED] and scraped on the arm above the elbow and to the shoulder.

I asked him what happened. He told me that Mr. [REDACTED] shoved him ~~against~~ against the lockers in the dress up room.

So I went up to the school the next day and talk to Mr. [REDACTED] principle on Jr. High. He called Mr. [REDACTED] down. He asked [REDACTED] if he shoved [REDACTED] into the lockers. He said he didn't, but he was smiling when he said this. They ([REDACTED] ([REDACTED])) said they would look into it. They also said there was no witness to verify what [REDACTED] said.

There was no more said about this subject.

It is really strange that there was no investigation on this kind of stuff.



CC-22, 1988

litters.

This incident happened the morning of April 25, 1988 at the [REDACTED]

Our 13 year old son had been having social problems in school for quite some time. His academics were outstanding. He made honor roll three quarters that year.

As a result of the social problems he had been reprimanded from his first period class and was spending that time in the library. On that day, when his English teacher came to the library to pick up his homework, he did not have it done. She gave him that day's assignment and he said "I probably won't get that done either." She went to report the comment to the superintendent and he was later called down here. The superintendent and my son talked about respecting teachers and being responsible for getting homework done. My son said "Here I am"

down here and I'm still not getting it done." The superintendent chuckled. My son stood, pointed his finger at the superintendent and said "And you're sitting there laughing about it." and sat down.

At this point I would like to make it very clear that my son was not endangering himself, any other student, any other person or any property.

The superintendent rose from his chair and came around his desk and took my son by the shoulders. He shook my son's shoulders and somehow my son put his head on the wall behind. The Hollering, done by the superintendent, could be heard in most of the school.

The superintendent then called and wanted to suspend my son. My husband went to get him and during a visit with the superintendent my son showed red bruising on his right shoulder

to his dad. My husband asked my son "Who did this to you?". My son pointed to the Superintendent and said "He did."

They immediately left the school grounds and my son was entered into [REDACTED] Middle School.

The school did not even acknowledge that the bruises and lump on my sons head were caused by Mr. [REDACTED]

Let's get with the times and abolish this kind of corporal Montana Schools.

COMMUNITY  
CLINIC

MONTANA

(406)

May 10, 1988

██████████ Mental Health Center

██████████ MT 59301

Dear Dr. █████

This is in regards to █████. This 12-year old caucasian male is seen at this clinic accompanied by his father. According to the father, the patient had been involved in an altercation in the █████ school between himself and the superintendent. According to the father, █████ is currently under your care. █████ father states that he has been having some problems at school and this morning he was in the library for a study period and allegedly was mouthing off to the English teacher. He states that the superintendent then came into the library and there must have been some words between the two of them, at which point, the superintendent allegedly grabbed hold of █████ right shoulder and started to shake him, which resulted in █████ hitting the back of his head against a wall.

On physical examination, the patient was alert, responsive, cooperative, and pleasant. He had a "goose egg" on the posterior left skull, approximately two to three cm. which was nontender and showed no breaks in the skin, no blood apparent. The right shoulder showed some bruising with very distinct four red streaks which the patient states are finger holes. The entire area was slightly ecchymotic over the right shoulder. There was no motor or sensory loss of the arm. Deep tendon reflexes were normal. There were no actual breaks in the skin of the right shoulder. Pupils were P.E.R.L.A. There was no disturbances in the patient's speech, manner affect, gate, etc.

My impression was a bruise of the right shoulder and a "goose egg" of the left posterior skull.

The father was advised to watch for any signs of nausea, vomiting, lethargy, sleepiness, headaches or any motor or sensory loss of the right arm. This was explained, in depth, to the father in the presence of the young man.

Snap shots are included for you of the patient.

If you need any further information, please do not hesitate to contact this office. Thank you.

Sincerely,

██████████ P. A.

Dear P.A.V.C.

10-16-88

I would be interested in being contacted by someone in your group. I currently have a 6<sup>th</sup> grade son in [REDACTED] who I feel has been and still is being persecuted in various ways.

Please notify me as to how to relay the details to you.

Thanks for making me feel that maybe I'm not just an overprotective mother!

Sincerely

[REDACTED]

# POLICE DEPARTMENT

## STATEMENT OF:

Name [REDACTED]

D.O.B. 8/16/74

Address [REDACTED]

Phone # [REDACTED]

Date 1-26-88 Page No. 1

Ref. Case # [REDACTED]

[REDACTED] On the 16th of December [REDACTED] hit [REDACTED] in the head. This took place while we were in P.E. class 1st period. We where playing basket ball and we made the basket [REDACTED] was going to take the ball out. Mr. [REDACTED] started to yell at [REDACTED] [REDACTED] had the ball in his hand. Mr. [REDACTED] told [REDACTED] to give him the ball which he did. Mr. [REDACTED] then took the ball and threw it at [REDACTED] like a baseball possibly hitting him in the side of the head, causing redness to [REDACTED] [REDACTED] At that time Mr. [REDACTED] said, "Catch the damn ball" [REDACTED] did catch the ball. We then continued to play basketball.

[REDACTED] Mr. [REDACTED] always pushes and hits [REDACTED] Mr. [REDACTED] always would tell him to leave. Sometimes he would get the girls for not participating.

Witness: [REDACTED]

Sign [REDACTED]

October 24, 1988

P.A.V.E.  
Box 55M  
c/o Montana Standard  
Butte, Montana 59701

Dear P.A.V.E. Committee,

I am sincerely interested in your efforts to abolish corporal punishment in the Montana school system.

We have recently moved to [REDACTED] from [REDACTED]. In [REDACTED] my son, now thirteen, has had several experiences with physical discipline from school personnel.

My son was in the Resource Room (he is [REDACTED] above average, but has a behavioral problem). Generally this behavioral problem can be overcome by talking to him and giving him a short time to "regroup". In the school in [REDACTED] they have what they call the time out box. That is exactly what it is, a BOX. It reminds me of the boxes they used in concentration camps - no windows, lights, etc.. Just a box that they can put children in to get them out of their hair. My son is clostrophobic and doing this to my son, or any child, should be abolished. He has also been sat on by teacher's aids which outweighed him by 50-75 pounds.

Mr. [REDACTED] the principal at one of the schools, has also hit [REDACTED] and knocked his head into the wall in the office. I did report this to the School Administration Office, and the problem seemed to end - they transferred [REDACTED] to a different school. Mr. [REDACTED] has been charged previously for the same offense.

There are numerous other incidents which I can cite, if you would like to contact me. I am willing to get copies of my son's school records if you should need them. I do have a good son, but I feel that some of the treatment that he has received from the schools has marred him for life.

They also have been known to put children in the janitorial closet when they are disruptive in class in one of the schools in [REDACTED]. I know, [REDACTED] has been in there.

If you would like to contact me, I can be reached at [REDACTED] after 5:00 P.M. and on weekends, or [REDACTED] weekdays, 8:00 A.M. to 5:00 P.M.

Sincerely,

[REDACTED]

April 20, 66

I would like to bring to your attention an incident that happened on Tuesday, April 22, concerning my son, [REDACTED] & also another youth named [REDACTED]

I believe you are aware of the situation but possibly not to its fullest.

My complaint is against Mr. [REDACTED] during a P.E. session.

I talked with Mr. [REDACTED] on Monday April 20<sup>th</sup> & I am not thoroughly satisfied with his response. I feel his statement of "I guess I shouldn't have done that" is not enough.

I want some disciplinary action taken against Mr. [REDACTED] & this situation be taken to the school board.

Is he the type of person we want as a role model for our children? I believe such behavior is indignant of someone leading & supposedly teaching our children the responsibility of growing up & very unbecoming behavior from a professional person.

I will now recall the situation to you:

After P.E. group [REDACTED] & the other youth were slipping towels Mr. [REDACTED] came into the locker room & asked who was doing this. He then proceeded to pick [REDACTED]

clothes up & told him to come on with him. He then left the locker room & threw [REDACTED] clothes out the side exit of the gym onto the ground & then told [REDACTED] to dress out there.

Luckily [REDACTED] still had on his swim trunks. There is no excuse for tossing a child outside a building when he is not properly dressed & still remained wet.

[REDACTED]'s behavior is common horse-play among kids. I'm not saying it's OK but I feel if punishment was necessary there had to be another just means.

On a personal basis, would you do this to your own child. It was very humiliating & embarrassing to [REDACTED] & [REDACTED] among their peers.

I have contacted [REDACTED]'s parents & they feel the same as I do, even though he was only thrown into the hallway but was completely naked.

I will await your response.

[REDACTED]  
Montana

cc: Superintendent's Office

My 11 year old son was struck with a fist by a superintendent, the only witness in the room was a 10 year old girl. It frightened the little girl so bad that she left school at lunch to find her mother and told her about it. Her mother called the school to ask what had gone on, the superintendent told her he was sorry for what he had done, he had lost his temper and hit the boy. This man deny's this part of their conversation. My son showed two classmates the red marks on his chest after the repeated blows, one of these boys testified at the County Superintendents hearing also. These children have all been called liars. We have had to move our children to another school district because of the hostility by school personnel and the parents who believe all these children lied.

All we had asked for was an apology to our son and the girl, it was denied. We then asked the school board to do something so this would never happen again it was denied. We then took it to the County Superintendent who has not made a ruling yet. We have been ostracised from the community. Why because we don't believe we pay someone \$40,000 a year to hit our child with a fist. I find it very frustrating that I can not ever prevent this from happening again, because corporal punishment is sanctioned by Montana law. We have been sent from one agency to another all telling us there is nothing we can do because of the law. The County Attorney even uses the corporal punishment law as an escape route.

We were told by one legislature the law was fine, move your kids to another district or move to a new town. The only problem with that is with the law sanctioned in Montana it can happen anywhere. The next best thing would be to move entirely out of Montana to a state who has abolished corporal punishment. This legislator even told us tell all these people to sue and make examples out of the ones who abuse the law. I cannot imagine the devastating effects this would have on the Montana school system. Press assault charges we were told. Who has the kind of money to do that? Surely not I.

My child is in therapy now because of radical personality changes. What I thought would be quick the therapist told me will take some time because this 11 year old boy now is in a severe depression.



TO WHOM IT MAY CONCERN:

After his usual lecture to the kids the first day of school, [REDACTED] said to me, [REDACTED] I know you smoke, and I hate your guts. And the first time I catch you smoking I'm going to kick your ass."

He caught me smoking a couple of times. Once he caught me and [REDACTED] smoking on the fire escape at [REDACTED] I don't know what he did to [REDACTED], but he grabbed me and tried to chuck me off the fire escape. I was so scared, I grabbed [REDACTED] for salvation. He knew he was going off if I was going off, so he let go. He called me every possible four-letter word there was then.

I didn't go back to phys. ed, so [REDACTED] asked me why I was skipping. I told [REDACTED] about the incident and the names [REDACTED] called me. [REDACTED] (the principal at the time) and [REDACTED] had a meeting, and I could hear lots of yelling. Then [REDACTED] was made to apologize to me.

From then on [REDACTED] and I had to run track because we smoked, which was okay with us.

My nephews told me that [REDACTED] made the boys dry themselves from the showers two [REDACTED] in front of him so he could check their poor hygiene. I told my nephews to tell [REDACTED] that their hygiene was fine and not to do it.

Months later, my nephews told me they'd told [REDACTED] what I said. They said [REDACTED] never had the boys dry off in front of him again.

1 Oct 1988

December 13, 1988

P.A.V.E.  
Box 217  
Hingham, MT. 59528

Dear P.A.V.E.:

I am writing as a mother because my son does not want to write. He told me a lot about his abuses and said incidents were too numerous to count during his 4 years of high school. It included lots of shoving against lockers, walls and pushing to the floor. He also felt that this teacher never gave him the grades he had worked for. My son has since graduated from this school & college, and is the only one of our five children that has not gotten a job. I wonder how much of an effect this teacher has had on my son's self esteem?

This teacher still remains in the district and this year has continued to be abusive to students. He overheard a high school girl saying he had a boring class. He became extremely angry and said "You'll see what boring is". The next day he gave them a level "C" test. He has his tests graded as to difficulty; "A"=easy, "B"=hard, "C"=very difficult. Needless to say they all flunked the test.

Another incident which took place in the Jr. High class a short time after. As he walked into the class room he noticed the newspapers (on rods) were not as neat as he liked. He went over to the newspapers, threw them on the floor and told the girls to pick them up & put them away right.

As a taxpayer and a parent, I'm angry that our students are having to meet daily with role models like this. Our children need all the support they can get! We are no longer in the dark ages; we know now what emotional and physical violence can do to children's and adults self-esteem! Keep up the good work.

Peace,



I spent 12 years in a parochial school, grades 1-12, and I do know what corporal punishment is all about. We were punished for anything from chewing gum in class, getting out of an orderly line, asking to use the bathroom before it was time, etc. There was no warning. A rap on the knuckles with a wooden ruler in grades 1-6 was very common. After reaching junior high our punishment changed. We worked after school, received spankings in front of the class, or had to stand on our tiptoes with our nose pressed against the blackboard, just to mention a few.

The one that stands out in my mind the most took place when I was in first grade. I had raised my hand to ask to go to the bathroom (I desperately needed to) and my teacher refused to let me go, telling me so when she was rapping my knuckles. I wet my pants for several reasons. I then had to stand in front of the class with my wet pants. I was never so humiliated in all my life, not to mention the pain of the wooden ruler. That was the beginning to 12 very long years in a Catholic school. I will never forget the pain and humiliation I suffered, because now at age 30 I have mild arthritis in both hands, only to worsen in the years to come.

After knowing what would happen to us if we got out of line at school most of us were terrified to even go to school. I did not do well in school, mainly in junior high and high school. I lost interest, I skipped school often, but somehow I managed to pass and graduate. We did have a few teachers that were not quite so strict, they only made us eat soap if we said something they did not approve of. I truly believe that if it had not been for the ruler on the knuckles, etc., I would have done much better in school and maybe I would have even liked it. I resented most of my teachers for having this power over me to decide when I would get rapped.

I believe that in our society today, a society that believes in preventing child abuse, that eliminating corporal punishment from our schools is the first place to start. Our children learn from us and we must start teaching them positive forms of discipline, and teaching ourselves. It is a negative form of discipline, interferes with the learning process, teaches children that it is okay to hit if someone does something they don't approve of, can cause emotional problems and lowers the self-esteem of a child.

We have to put an end to it once and for all!!

Sincerely,

Please forgive this hand written letter.  
I have a typewriter but have not gotten  
used to using yet.

I have some other people that will  
write letters. I hope they do some good.  
One should be on physical abuse and  
another on sexual abuse.

I didn't sign my letter because of  
what we discussed on the phone.

I still have not contacted Dr. [REDACTED] but  
will soon. Did let you know what he  
has to say. Thanks so much for  
your help - especially the names of Dr.  
[REDACTED] and the attorney.

May God be with you and all the others  
in your organization. You are doing  
something that has been needed for a  
long time. As I told you, I will help  
with what ever I can. When I am  
legally able - I will get more involved.  
As I said - I've been fighting this  
battle for ten years but any person  
doesn't make much of an impression.

I look forward to hearing from you  
again.

Sincerely,

[REDACTED]

Created a signature for you on 11-11-2011

18, Jan 1989

To the Representatives of P-A-V-E,

I support the issue you are so courageously fighting for; The abolition of violence in education.

A short story written by Anthony deMello fits within this situation as well as many other situations:

### The Devil And His Friend

The devil once went for a walk with a friend. They saw a man ahead of them stoop down and pick up something from the ground.

"What did the man find?" asked the friend.

"A piece of truth," said the devil.

"Doesn't that disturb you?" asked the friend.

"No," said the devil, "I shall let him make a belief out of it."

(deMello, 1987)

DeMello's reflection on his story:

A religious belief is a signpost pointing the way to truth. When you cling to the signpost you are prevented from moving toward the truth because you think you have it already.

DeMello's reflection is a religious reflection but it can easily be applied to the issue of teacher abuse.

Some where in our history someone created a "signpost" pointing to a small

"piece of truth" that said teachers can do no wrong. Society has made a belief out of it.

In our past history child abuse was a norm — it just wasn't called "child abuse." Fortunately, people became better educated and more humane and began to question this belief. Unfortunately — those who have broken the addiction of "perfect teacher" are a minority. As a result of this belief our children are physically, emotionally, and psychologically abused by teachers.

Emotional and psychological abuse are not visible to the average parent and are easily denied. And, even though physical abuse is visible, our addicted society refuses to acknowledge its damaging effects.

Will society believe that there is a 90% chance of their teenagers becoming drug abusers or alcoholics by the time they ~~get~~ reach the 9<sup>th</sup> grade because of teacher abuse? Will society pick up this "piece of truth"? Not unless some eyes are opened by the judicial system!

It has been my experience that only two out of six teachers have the love and devotion to teach a dyslexic, visually impaired, or health impaired child. A very low percentage in a position where a human being has the role of molding our nations future workers, parents, and leaders.

[REDACTED], MT. 59711

[REDACTED], MT 59711

Superintendent of the [REDACTED]  
Public School Board

This letter is to inform the School Board and all interested parties of inappropriate disciplinary action, administered by teacher [REDACTED] towards J. [REDACTED] and J. [REDACTED] on the day of Friday May 30, 1986. In the hallway to there gym locker room area, J. [REDACTED] was grabbed about the neck and shaken roughly for throwing a piece of candy in the hallway. Shortly there after, while J. [REDACTED] was talking to J. [REDACTED] about this incident, he was also grabbed about the front of the neck and had his hair pulled while being shaken by [REDACTED]. We the parents of these two boys feel this is not proper disciplinary action but a scare tactic that is used to control students when a teacher has lost the ability to gain the respect of his students. How can [REDACTED] gain the respect of the students when he has no respect for himself. He is and always has been a teacher with an extremely bad attitude, to rough and foulmouthed with the students. He has been this kind of teacher since we were both going to high school back in the 70's.

This is student abuse, that the school and the teacher could be held liable for said actions. Since the [REDACTED] shut down, I [REDACTED], have had the opportunity to work and live in other communities and my boy has attended school there, Colstrip, MT and Delta, UT.. Coming back to [REDACTED] twice now, I find to many teachers here with extremely bad attitude problems with a union that continues to protect them. I see these teachers getting the idea that they have a job here in [REDACTED] for life and are not accountable for there actions anymore. All they worry about is there check coming in. [REDACTED] has a sick school system full of to many sick teachers that are taking the slump in [REDACTED] out on the students because they cannot get the big money out of the people anymore. Well, look out side of [REDACTED] once and they will find out that it is a hell of a lot worse out there, then they will ever find in [REDACTED]

I know [REDACTED] will harass these two boys over this letter, he has always done so in the past, in this type of situation and the union has always protected him and other teachers when they are caught but things are going to change starting with this letter. Your union preaches quality teachers, well it is time to put forth. And tell [REDACTED] not to go about his old ways over this letter or I will see to it that he loses the job that he feels he should be getting more money for.

We expect you to handle this letter in a professional manner, which you sell yourselves as, with a reply of the action taken on this matter and not handled in the old manner of the union and school board sweeping it under the carpet.

Have a nice day,

Copy to: Mr. [REDACTED]

[REDACTED] Junior High School Principal

[REDACTED] Physical Education Teacher

*Copy*

1.5.86.87

THIS LETTER WAS ADDRESSED TO KAREN YOUSO, PRESIDENT  
PARENTS FOR THE ABOLITION OF VIOLENCE  
IN EDUCATION  
BOX 21  
HINGHAM, MT 59528

FROM: MRS. DONNA VAN WECHEL

MRS. VAN WECHEL WAS A TEACHER IN THE MONTANA EDUCATION SYSTEM  
FOR OVER 30 YEARS AND IS NOW A DIRECTOR OF CURRICULUM IN  
THE STATE OF ALASKA.

"Yes! I too stood (tot) in the patch  
of "teachers against C.P." It has not  
been a popular place (or comfortable)  
to stand, I could not live with  
myself if I did not speak out against  
C.P."

As you may or may not know, the  
reason for leaving the [REDACTED] Public  
School system was because of one  
principal that I felt was abusive  
to students, I dared disagree with his  
form of discipline, which was C.P. and  
I was viewed as a "troublemaker".

I do believe violence breeds violence,  
and to me C.P. is violence. It says, "I  
can't deal with the problem, so I'll  
strike out at it." (Missing strike the  
"I'll")

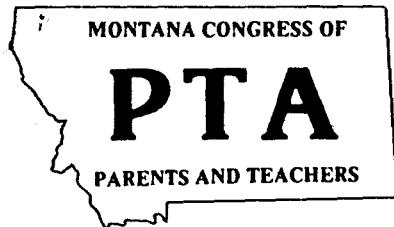
I believe in deserved punishment which  
gives opportunity to the student and under-  
standing. The student needs to know  
"why" he deserves and the consequences.  
If the student chooses to choose the  
rule's taught him. He consequences  
which they have helped select. This  
is more C.P.

I certainly know what you are  
suffering, but I am proud of you  
& others like ~~you~~ for speaking out  
against something you feel is wrong,  
because it <sup>is</sup> ~~is~~ wrong.

I also think it important to speak  
up or out — women would not  
have the privilege to vote had  
someone not dare speak out!

Merry Christmas & Happy New Year to  
all!

Love, X  
Doreen



SENATE EDUCATION

EXHIBIT NO. 2

DATE 2-13-89

BILL NO. SB 378

2/13/89

TESTIMONY -- SB 378

Senate Education and Cultural Resources Committee

Chairman Hammond and members of the Senate Education and Cultural Resources Committee:

For the record, I am Helen Volden, Legislative Coordinator for the Montana Congress of Parents and Teachers Association - commonly referred to as the Montana PTA. The National PTA is the largest and most effective child advocacy organization in America. The Montana PTA is the largest and most effective child advocacy organization in Montana.

I am representing 11,000+ members across Montana. We urge your support of this bill....SB 378: That will prohibit any person who is employed or engaged by a school district from inflicting corporal punishment on a pupil.

Whether we realize or care to admit it or not, corporal punishment is used a great deal in our schools on our children. This means that school personnel may use physical force (slapping, punching, shoving, etc.) to punish a student who has misbehaved, broken a rule, failed a test, not finished milk, etc. Many pupils are physically punished every year by teachers and/or administrators who believe this to be their right and duty.

After several years of much concern, study and debate - the Montana PTA adopted a resolution in 1988 specifically opposing the use of corporal punishment in schools. I will be leaving with each of you a copy of that resolution.

In recent years there have <sup>been</sup> several studies (by such organizations as the NEA, the Committee to End Violence Against the Next Generation, Center for the Study of Corporal Punishment and Alternatives in the Schools (Temple University), among others) exploring the issue. These studies showed that rather than curbing violence, corporal punishment had the exact opposite effect.

There were increased attacks on teachers and many more reports of vandalism in schools that practiced corporal punishment. Corporal punishment has been found to contribute to misbehavior and juvenile delinquency outside of schools. And that child battering by parents will never be eliminated as long as corporal punishment continues to be legally and socially sanctioned in our schools.

Corporal punishment does not achieve the so-often stated purpose of maintaining discipline because it is treating the symptoms - not the underlying cause of unruly behavior. Even more so, there isn't a single reputable academic study that supports corporal punishment as an effective learning or disciplinary tool.

Why is it----the punching of an adult is considered assault and battery, while punching a child is said to be discipline?

The availability of corporal punishment discourages teachers from other and better avenues of discipline....even though we have been told time and time again that corporal punishment is supposed to be used as a last resort. We all know, that too often that is simply not the case.

The Montana PTA would never support--nor ask for your support--a proposal that would put teachers in jeopardy or lead to undisciplined classrooms. Corporal punishment can be prohibited yet permitting the use of physical force for restraint and allowing teachers to protect themselves, other students, the offending student and school property.

A ban on corporal punishment outlaws physical abuse in the name of discipline. The Montana PTA believes that there are better and much more effective methods of controlling student behavior.

In closing, again, we ask for your support of this legislation---opposing the use of corporal punishment in our schools.

It is demeaning to the user and dehumanizing for the victim.

It is ineffective and frequently cruel.

It condones violence by adults towards children. Children should not be for hitting.

Thank you.

*Helen J Volden*

P Helen J Volden  
T MPTA Legislative Chm  
103 Marion Pk Wy  
A Hamilton MT 59840

*Enclosure*

## CORPORAL PUNISHMENT

Whereas,

The first object of the PTA is to promote the welfare of children and youth in home, school, community and place of worship; and

Whereas,

The third object of the PTA is to secure adequate laws for the care and protection of children and youth; and

Whereas,

Corporal punishment has been abolished in many developed countries of the world and in several areas of the United States; and

Whereas,

Even the U.S. Supreme Court has supported the legality and constitutionality of "reasonable force" while eliminating corporal punishment from many institutions other than schools; and

Whereas,

Many school districts in Montana do not have policies prohibiting corporal punishment nor viable alternatives in place; and

Whereas,

Many alternatives to corporal punishment as a disciplinary measure are available, and for the most part have a more beneficial effect; therefore be it

RESOLVED

That the Montana Congress of Parents and Teachers make available to units and councils information on corporal punishment laws, procedures, and alternatives; therefore be it further

RESOLVED

That the Montana Congress of Parents and Teachers establish a position opposing corporal punishment in accordance with the Health and Welfare Policies of the National PTA; and be it further

RESOLVED

That the Montana PTA through its local units and councils work with school districts to develop disciplinary procedures which will result in positive behavior of students and utilize positive alternative techniques.

# WOMEN'S LOBBYIST FUND

Box 1099  
Helena, MT 59624  
449-2122  
February 13, 1989



STATE EDUCATION  
EXHIBIT NO. A 3

DATE 2-13-89  
BILL NO. SB 378

S.B. 378 - prohibiting corporal punishment

Recommend: Do Pass

The Montana Women's Lobby recommends a do pass for S.B. 378. This legislation would put Montana with the ranks of 17 states that already forbid corporal punishment in schools and with 9 other states currently considering such legislation.

Do we really intend to teach our children that problems can be solved with force and violence? The use of corporal punishment creates feelings of antagonism between children and authority figures.

In almost any school system, you will find extremely effective teachers who don't rely on the infliction of either physical or psychological pain to control students. They create a classroom climate in which students feel that the teacher is fair, just and cares about them. Teachers who frequently use corporal punishment tend to be authoritarian, dogmatic, impulsive and neurotic compared to their peers. For those disruptive students who can't function in a regular setting, Federal and state laws provide for psychological diagnosis and placement.

Studies of violent juvenile offenders invariably reveal histories of the use of excessive corporal punishment by parents and caretakers. Statistics show that those students who were receiving corporal punishment were from the lowest socio-economic levels and were most likely receiving corporal punishment at home.

The ancient Greek philosopher Plutarch said "Children ought to be lead to honorable practices by means of encouragement and reasoning, and most certainly not by blows and ill treatments." The opponents to this bill will cite an isolated quote from the Book of Proverbs justifying corporal punishment. One could just as easily cite the Bible as an authority for the practice of slavery, the rigid suppression of women, polygamy, incest and infanticide. The New Testament teaches us love and forgiveness and a respect for the beauty of children and rejects violence and retribution as a means of solving human conflicts.

Good teachers don't need corporal punishment and bad teachers abuse it. Please give your approval to S.B. 378, an idea who's time has come.

Mr. Chairman & Committee Members

I am Kathy White a concerned parent and Vice President of Parents for the Abolition of Violence in Education. I oppose the use of corporal punishment as it is not discipline, it is physical dominance over vulnerable individuals.

My testimony does not seek to undermine the authority of Montana educators. I firmly believe in a positive discipline program that teaches our children about dignity, respect, self control, values and responsibilities, discipline programs that strengthens self esteem and character and which leave our children's rights as individuals intact. I support Senate Bill# 378 in that it addresses the issue that a democratic society should not rely on dominance in order to educate children to become productive members of society and because it provides an educator the right to defend himself, others and property.

I do not believe in physical punishment that humiliates and physically or psychologically scars our children for life. Physical punishment inflicted by a parent or educator teaches a child that violence is an acceptable way to solve their problems. Schools should be stemming violence not perpetuating its acceptance. In small communities where schools are the hub of the society, we look to our educators to set examples. In a time when our nation is putting emphasis on child abuse, parents are receiving a double standard. We as parents are not to abuse our children in our

own homes, but in a school atmosphere our children may be corporally punished by an educator. Any child abuser will look at this message and consider themselves exonerated for their actions.

Do wives deserve to be hit and abused by their spouses? Do children in abusive homes deserve to be beaten and battered because their parents do not have the knowledge of better discipline practices or because they have lost control? In our schools "control" is not achieved by corporal punishment, but by mutual respect of pupil and teacher. When a teacher must resort to beating children they have already lost control. As long as any school district in this state is allowed the option to use corporal punishment, children will remain unprotected against possible abuse. One child abused is one too many.

The infliction of pain by an educator can cause a wide range of psychological damage to some students. Because of the setting and nature of the trauma, some children develop what psychologists call educator-induced Post Traumatic Stress Disorder, which is similar to the stress disorders suffered by some Vietnam veterans. A high percentage of these children develop anger, aggression and a hatred towards school. There is a decline in school performance and a significant drop in their grade average. These students will appear unhappy, depressed and become more withdrawn as time goes by. Corporal punishment leaves children with a loss of trust and a fear associated with educators.

Senate Bill# 378 is in reality a part of general movement to counter child abuse in our society and is intended to have children experience less physical punishment in school settings as a message against violence. The similarity between corporal punishment and child abuse are inescapable. In both cases what begins as discipline can end in something else when the responsible adult loses control. In both cases only certain children are singled out and serious injuries may be inflicted. The biggest difference between corporal punishment and child abuse is that corporal punishment is legal while child abuse is not. Senate Bill# 378 would seek to encourage all levels of Montana society to look to the hitting of any child as unacceptable.

At least one law enforcement officer has received harassing telephone calls while investigating excessive corporal punishment incidences. This is the result of local control.

At least one Social Worker has had their job threatened while trying to serve abuse papers in a school system. This too is the result of local control.

If you take these phrases "corporal punishment", "intentional" or "spontaneous physical contact" and link them with the phrase "is only used as a last resort", then:

you have in the last week a student who received a severe blow to the back of the hand, resulting in the breakage of the major blood vessel to the fingers, leaving a pool of blood and a large knot.

then you have an educator who orders older students to hold younger students under water in a swimming pool for indefinite periods of time, some to the point of near drowning.

then you have an eight year old student who was given permission to use the telephone by a teacher and was then corporally punished for the act.

then you have students who are being struck in the face intentionally or spontaneously with fists and basketballs, students being shoved against lockers, thrown against walls, locked in janitor closets and confined to time out boxes for up to two hours at a time.

Left to local control a parent is often times thrust into a realm of coverup and frustration. County Attorneys often make a decision that these instances are a violation of discipline law, but leave any disciplinary action to the school board. School boards often rule that the violation of the child was morally and ethically acceptable under our current corporal punishment statute.

In a recent decision from a County Superintendent the ruling was made that corporal punishment involves the intentional infliction of physical pain to a student to punish misbehavior. Spontaneous physical contact between a teacher/principal and a student not intended as punishment by the teacher/principal nor viewed as punishment by the student does not constitute corporal punishment.

Our opponents will most likely testify that this decision has the status of the law, it does not. It is the opinion of one County Superintendent, and one only. This decision if used in determining other cases will ultimately leave parents with one option, to go beyond the confines of the school systems and into the realm of litigation.

In a recent report to us a mother had complained to a Superintendent of an abuse to her first grade child. This was not the first complaint against this teacher. The Superintendent laughed in the mothers face and said "just who do you think you will get to help you?" This is the result of local control.

One incidence which has left a lasting impression on my mind is not as recent as are the previous incidences I have listed. For a disciplinary measure a female student was made to hold uninsulated electrical wires between her finger tips. To this day she has no feeling in the tips of her fingers.

Corporal punishment whether intentional, as a loss of self-control or as a last resort, the bottom line is, this is child abuse, these are our children, please protect them.

THANK YOU

# Alternatives to the Use of Physical Punishment

From the National Education Association Task Force on Corporal Punishment

## SHORT-RANGE SOLUTIONS

The first step that must be taken is the elimination of the use of punishment as a means of maintaining discipline. Thus, the ideas below can be used as temporary measures to maintain discipline while longer-range programs are being put into effect.

1. Quiet places (corners, small rooms, retreats).
2. Student-teacher agreement on immediate alternatives.
3. Teaming of adults -- teachers, administrators, aides, volunteers (parents and others) to take students aside when they are disruptive and listen to them, talk to them, and counsel them until periods of instability subside.
4. Similar services for educators whose stamina is exhausted.
5. Social workers, psychologists, and psychiatrists to work on a one-to-one basis with disruptive students or distraught teachers.
6. Provisions of alternative experiences for students who are bored, turned off, or otherwise unreceptive to particular educational experience.
  - a. Independent projects
  - b. Listening and viewing experiences with technological learning devices
  - c. Library research
  - d. Work-study experience
7. In-service programs to help teachers and other school staff learn a variety of techniques for building better interpersonal relations between themselves and students and among students.
  - a. Class meetings (Glasser technique)
  - b. Role playing
  - c. Case study - what would you do?
  - d. Student-teacher human relations retreats and outings
  - e. Teacher (or other staff) student-parent conferences

8. Class discussion -- of natural consequences of good and bad behavior (not threats or promises) of what behavior is right; of what behavior achieves desired results; of causes of a "bad day" for the class.
9. Privileges to bestow or withdraw.
10. Approval or disapproval.
11. Other staff members to work with a class whose teacher needs a break.

#### INTERMEDIATE-RANGE SOLUTIONS

1. Staff-student jointly develop discipline policy and procedures.
2. Staff-student committee to implement discipline policy.
3. Parent education programs in interpersonal relations.
4. Staff in-service program on interpersonal relations on understanding emotions and on dealing with children when they are disruptive.
5. Student human relations councils and grievance procedures.
6. Training for students and teachers in crisis intervention.
7. Training for students in student advocacy.
8. Training for teachers in dealing with fear of physical violence.
9. Regular opportunities for principals to experience classroom situations.

#### LONG-RANGE SOLUTIONS IN THE SCHOOLS

1. Full involvement of students in the decision-making process in the school.
2. Curriculum content revision and expansion by students and staff to motivate student interest.
3. Teacher in-service programs on new teaching strategies to maintain student interest.

4. Alternate programs for students.
5. Work-study programs.
6. Drop-out -- drop-back-in programs.
7. Alternative schools within the public school system.
8. Early entrance to college.
9. Alternatives to format program during the last two years of high school.
10. Few enough students per staff member that staff can really get to know students.
11. Adequate professional specialist -- psychiatrists, psychologists, social workers.
12. Aides and technicians to carry out paraprofessional, clerical and technical duties so that professional staff are free to work directly with students more of the time.
13. A wide variety of learning materials and technological devices.
14. Full implementation of the Code of Student Rights.
15. Full implementation of NEA Resolution 71-12 "Student Involvement":

The National Education Association believes that genuine student involvement requires responsible student action which is possible if students are guaranteed certain basic rights among which are the following: the right to free inquiry and expression; the right to due process; the right to freedom of association; the right to freedom of peaceful assembly and petition the right to participate in the governance of the school, college and university; the right to freedom from discrimination; and the right to equal educational opportunity.

### LONG-RANGE SOLUTIONS WITH OTHER AGENCIES

1. Staff help from local and regional mental health and human relations agencies.
2. More consultant staff to work with individual problem students.
3. Long-range intensive in-service programs to prepare all staff to become counselors.
4. Mass media presentations directed to both the public and the profession on the place of children in contemporary American society.
5. Some educational experiences relocated in business, industry and social agencies.
6. Increased human relations training in pre-service teacher education and specific preparation in constructive disciplinary procedures.

## SCHOOL CAUSED DISRUPTIONS

### ALTERNATIVE RESPONSES TO A CHILD'S DISRUPTIVENESS

Part of the fault for disorderly schools must be borne by the administrators. They set the tone by their attention either to achievement and honors or exclusively to tardiness and lunchroom chatter. Who looks for evil will find it; who looks for good will create it.

Attention to the construction of a relevant set of curriculum offerings, keeping the honor roll more prominent than the list of delinquents, active listening to the parents and the community, a genuine fascination with and loyalty to the school will dissolve an enormous amount of antagonism and hence disruption.

If students and faculty are adversaries busily hunting for ways to outwit each other, little learning takes place. If the faculty in response to minor mistakes and petty infractions continues to break out the paddle and batter at those too small to retaliate, no improvement can be expected.

Every blow meted out to a child is passed on, sooner or later to someone else younger and more helpless.

"If ye have done it unto the least of these, ye have done it unto Me."

#### PHYSICAL

presence  
touching  
holding  
listening  
waiting  
facial expression  
of sadness  
disappointment  
wiping away tears  
bandaid  
slapping  
spanking  
paddling  
whipping  
abuse  
knocking about  
withholding food, rest or  
toileting  
screaming  
locking up

#### NON-VIOLENT

presence  
touching  
holding  
listening  
waiting  
facial expression  
of sadness  
disappointment  
wiping away tears  
bandaid  
insults  
belittling  
hypocrisy  
threatening  
nagging  
comparison with siblings  
predictions of failure  
defamation of character  
remarks about family,  
body or status  
factual statements  
explanations  
forgiveness  
honesty  
assuming it was an  
accident  
providing other outlet  
providing food, rest,  
comfort  
changing the subject  
pleasant joke

#### VIOLENT

#### PSYCHOLOGICAL

(after David Welch, University of Northern Colorado  
and Anne C. Richards, West Georgia College)



## ALTERNATIVES TO CORPORAL PUNISHMENT

1. Alternative support systems for teachers to help maintain discipline:
  - a. Provide constructive supervision of classrooms
    - individual information/examples
    - models for alternative management
    - on-going planning and discussion
  - b. Provide teachers with a "release valve" for those moments when their best isn't good enough.
  - c. Structure more opportunities for cooperative learning between teachers.
2. School-wide support systems for maintenance of discipline and establishment of positive school atmosphere:
  - a. Have written school philosophy which addresses school climate.
  - b. Have written code of discipline which specifies consequences
    - involve students/parents/community in its development
    - communicate regularly to all audiences

CANTER AND ASSOCIATES, INC.: ASSERTIVE DISCIPLINE  
Santa Monica, California a take charge approach for  
today's educator

CHILDREN'S CREATIVE RESPONSE TO CONFLICT:  
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(914) 358-4601

THE DISCIPLINE ADVANTAGE  
SUSPENSION LEARNING  
PACKET SYSTEM:  
published in 1987 by  
Advantage Press Inc.

## "SELF MANAGER" Program:

1001 ALTERNATIVES to Corporal Punishment End Violence Against the Next Generation 977 Keeler Ave. Berkely, CA. 94708-1498

This program provides specifically designed activities in which participants experience ways to examine conflicts and develop solutions. CCRC fall within four themes: Cooperation, Communication, Affirmation and Conflict Resolution.

A reading and writing program geared to help a student understand the rule he broke, why he broke it, and how to keep out of trouble in the future.

For a student who has forfeited honor status by some misbehavior. Forfeiting honor status means the student is denied assemblies, field trips school dances, hall passes and other privileges.

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TWENTY GOOD REASONS  
 TO STOP A BAD PRACTICE

- 1) Schools that use corporal punishment tend to have poorer academic achievement more vandalism, truancy, pupil violence and drop-out than schools that don't use corporal punishment.
- 2) Because child abuse and its effects are becoming better understood by more people, paddlers run a greater risk of criminal prosecutions and civil suits than ever before. That risk will continue to increase as long as paddling is allowed.
- 3) Teachers who use corporal punishment tend to spend more time 'disciplining' and less time teaching than teachers who don't use corporal punishment.
- 4) No teachers' training curriculum includes instruction in the use of corporal punishment and most acknowledged leaders in the education field consider the practice unprofessional and counterproductive.
- 5) Most teachers don't hit children and many find it difficult or impossible to work in settings where children have been conditioned to expect adult violence. For this reason, violent schools tend to lose their most able teachers and to become increasingly punitive, demoralized and ineffective.
- 6) The use of corporal punishment creates feelings of antagonism between children and authority figures. It causes children's trust in adults to diminish and causes hostility toward school to overshadow children's natural desire to learn. Much of their creative energy is diverted into finding ways to avoid punishment or to 'get even.'
- 7) In schools where corporal punishment is allowed, there is little incentive for teachers to learn more humane, effective and up-to-date methods of classroom management.
- 8) By undermining self-respect, corporal punishment plants the seeds of future self-destructive and antisocial behaviors, such as lying, stealing, bullying, smoking, drinking, drug-taking, reckless driving, delinquency, running away or even suicide. Ironically, corporal punishment is often used to punish the very behaviors it causes!
- 9) Children with learning disabilities are often punished because of poor performance or because of their inability to conform. The use of corporal punishment has the effect of masking the original problem by piling on new ones.
- 10) Corporal punishment destroys the natural feelings of empathy that are in every child. Children who see their peers hurt, while they are powerless to intervene, eventually learn to be indifferent to the suffering of others.
- 11) People who have been trained from childhood to behave out of fear of punishment rarely learn to govern their own conduct except out of fear of punishment. Children develop moral judgment, self-control, self-responsibility and consideration for others by following the good example of the significant adults in their lives.
- 12) Corporal punishment teaches submissiveness (alternatively to provoking rebellion). Children are expected to cooperate in the act, and usually do. This conditions them to become easy targets for criminals who molest or exploit children sexually. One cannot reasonably expect a child who obediently bends over for a beating on Monday to be able to say 'no' to a molester on Tuesday.
- 13) Corporal punishment contributes to boys' becoming battering husbands and to girls' becoming battered wives.

[over]

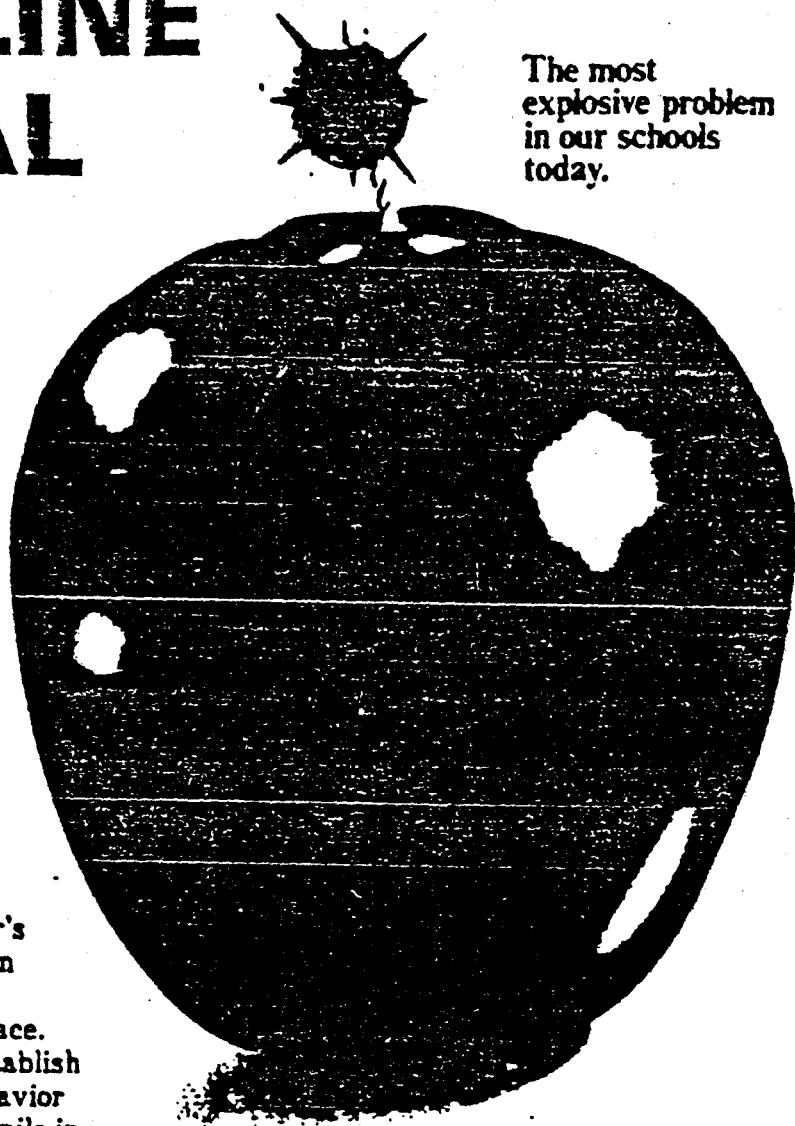
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# DISCIPLINE MANUAL

Suggestions For  
Improving Classroom  
Management and  
For Handling  
and Preventing  
Student Disciplinary  
Problems

The most  
explosive problem  
in our schools  
today.



**B**asically, the responsibility for good classroom discipline rests with the classroom teacher. Most authorities agree that without a comfortable disciplinary situation, the teacher's job becomes frustrating and even unbearable, and as a result little teaching or learning will take place. It is very important that you establish clearly and immediately the behavior pattern to be followed by the pupils in your classes. Actually, students welcome reasonable discipline and have respect for teachers who follow a consistent policy. Here are some suggestions for better classroom discipline:

1. Make sure your students know and observe the regulations established for the school.
2. Outline and discuss the basis on which a pupil's grade is to be decided. They must understand this procedure.
3. Use a definite seating arrangement.
4. Provide enough work to keep students busy, but not so much that they are overwhelmed.

5. Establish a reputation for being businesslike, firm, and fair with your students.
6. Prepare for your classes. Students respond to teachers who know what they are doing.
7. Do not use sarcasm or try to belittle the pupil publicly. The teacher cannot be the winner in this type of situation.

The following pages contain suggestions and pointers for handling and preventing disciplinary problems in your classroom.

- b. Class must settle to work when the bell rings. If not, quick drill lessons or short tests at the beginning of the period will encourage application to work quickly.  
Take roll promptly.
- 3. Disobedient and insolent students:
  - a. Ask him/her to leave the room immediately, but be definite as to whether the pupil is to wait outside the door for you or report to the dean, counselor, or principal.
  - b. Maintain your own poise and continue with class. Do not permit a student to break up a class by quarreling with him/her or by forcing an issue. Never argue with a student. Correction of problem must be completed before student returns to classroom.
- 4. Teacher-pupil conferences:
  - a. The clown, show-off, or interrupter should be corrected audibly in class. The pupil's attitude can be controlled by an impersonal attitude on the part of the teacher who holds consistently to the classroom standard of good conduct.

b. Some students should be corrected quietly in confidence. If poor conduct persists, take him/her into the hall or ask for a conference after school.

c. Permit a pupil the opportunity to talk. You may find the reason for his/her behavior.

D. Refer certain cases to the dean, counselor, or principal.

- 1. Those whose misbehavior is repeated after many conferences should be referred.
- 2. If too many discipline problems appear in one class, this may justify regrouping and distributing offenders.

Good classroom discipline should not be thought of merely as being strict, but as a cause-and-effect relationship. The student should be made aware that certain types of behavior will cause unpleasant results, while others will elicit teacher recognition and praise. If you use this cause-and-effect approach, then most students will naturally develop good behavior attitudes and responses. In summary, you can achieve good classroom control, acceptable student conduct, and real student achievement if you are firm, fair, friendly, consistent, and prepared.

**nea**

National Education Association  
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## Middle School Medley

### What I think A Teacher Might Be

One of the characteristics I would like to find in my ideal teacher would be that he or she be very caring. I think this is important because many students need to be cared for. One thing a teacher might do to show that they care for the students is to help them with their work or if they have a problem. Most teachers do care and that makes me feel good.

by Anthony Alvarado

### The Ideal Teacher

I believe the most important characteristic an ideal teacher can have is high moral character. The reason is because a teacher not only communicates information, but what he or she is as a person. Someone may have knowledge of his or her subject and great communication skills, but true teaching imparts love for learning as well as the material to be understood.

by Suzy Lee-Warner

### The Ideal Teacher

The first thing I would look for in an ideal teacher would be whether or not he or she was cheerful. It makes the class period go much faster and smoother if the teacher is friendly and happy and doesn't yell and huff about everything. It's also easier to talk to a teacher about a problem you might have, relating to school or not, knowing that they'll be nice and try to help you instead of telling you to go away and that they don't have time. It also makes it definitely easier if you're having a bad day. They always seem to make you feel better if they are cheerful and have a sense of humor. It's always great to have at least one cheerful teacher in your day that really knows how to brighten your morning or afternoon.

by Steph Henderson

### My Ideal Teacher

To me, the ideal teacher would be understanding. She would get to know all of her students and try to help them with their problems. She would always be there for her students to talk to. She wouldn't be harsh with discipline, but have an incentive for students to behave. She would be lenient with homework, and not have an assignment or test on a night with a school activity or on a holiday. If one of her students ever forgot an assignment, she would allow him or her to either go get it, or turn it in the next day for the same credit. She would always be in a good mood. When a student was having a bad day, she would always cheer them up. She would be the kind of person who always sees the good in things. She would understand the students who were slow learners and help them the best she could. No matter what, she would always do the best she could.

by Heather Bartlett

# Middle School Medley

## Organization: Characteristic For an Ideal Teacher

I think organization is one of the more important characteristics for a teacher. A teacher needs to be organized to teach a good class. If she is not very organized she might get confused while teaching a class. Also she might influence other people to work in a more organized way. Organized people are less confused and organized teachers are easier to understand and work with.

By Joanna Rundquist

## My Kind of Teacher

My kind of teacher is one who is understanding. A teacher should understand that students work differently and at different levels. I think a teacher should understand when a student has a good or bad day because everyone has them. A teacher should be helpful so the student can do good on their work. I think the teacher should also be willing to listen when a student has a problem and confides in them for help. I think a very important thing is that the work is fun for the teacher and the students. I have some teachers like this and I really enjoy having them for school!

By Milissa Brock

## What I Think a Teacher Should Be

I think a teacher should be creative because some classes can get so boring. If the teacher were creative he or she would always have something new and different for the students to do. I would like the teacher to think of fun and exciting things instead of hard and uninteresting things. I would also like to have lots of activities during class. I think if the things the teacher thought of were fun, the students would be more interested and want to learn. A creative teacher would be the ideal teacher for me.

By Travis Gowney

## The Ideal Teacher

I believe the ideal teacher should be thoughtful. If a teacher didn't care about people getting an education he or she would not be right for the job. A teacher must like the age group he or she teaches, otherwise they would not get along. A teacher must respect the students and demand respect in return. A good teacher is one who is kind but also uncompromising.

By David Lienhart

## Teaching Is Caring

I think the ideal teacher should be caring. She should care about the students and their feelings and ideas. When a teacher cares she is usually friendly, helpful, and cheerful too. If the teacher shows she cares, it makes the class much more fun. Then the students will probably be more interested in learning. Caring is an important part of being a teacher.

By Amy Szudera

## What the Ideal Teacher Would Be Like

The ideal teacher would definitely have to be intelligent. I feel if someone is going to teach someone else, that person had better know what he is talking about. If the teacher were intelligent he would probably set a good example for his students. The students might try harder because they can see what they can accomplish. Also, the ideal teacher should be very organized. If the teacher weren't organized, he wouldn't be able to teach very well. He might be looking for something instead of using that valuable time doing his job, teaching. I think most teachers are intelligent and some are organized, so schools are probably pretty well off.

By David Keil

The Hins Daily News  
October 27, 1988

Exhibit 1 A

2/13/89

SB 378

State of Montana  
Office of the Governor  
Helena, Montana 59620  
406-444-3111

TED SCHWINDEN  
GOVERNOR

September 13, 1988

Kathy White  
Box 65  
Hingham, MT 59528

Dear Ms. White:

Thank you for your letter about corporal punishment in the schools. I'm sorry to learn of the incident involving your son. It appears, however, that you have taken the matter to the appropriate authorities.

I reviewed the relevant statutes after reading your letter and agree that they are rather vague. Without knowing the case law on the subject, I don't know whether allowable acts have been defined more closely by the courts. The law does seem to leave a lot of discretion to school officials.

As Governor, I can't introduce a bill in the legislature; as you know, I won't even be Governor when the next session convenes in January. I recommend that you take up this matter with your local senator and representative. With the emphasis we are placing on curbing child abuse, you may well have found a flaw in our laws that needs correcting.

Sincerely,



TED SCHWINDEN  
Governor

**C. David Clauss**  
Attorney at Law

Telephone  
307/733-1191

January 18, 1989

P.O. Box 1172  
545 West Broadway  
Jackson, Wyoming 83001

Miss Kathy White  
P.O. Box 65  
Hingham, Montana 59528

EXPRESS MAIL

Re: Corporal Punishment in Schools

Dear Kathy:

Thank you for having been in contact with me relative to the legislation which you are working on in Montana. I am pleased to provide the following information regarding my experience, as an attorney, with issues regarding corporal punishment in the public schools.

As you probably know, corporal punishment in the public schools is lawful in Wyoming. In 1984, I became involved in a case where corporal punishment had been administered to Troy Ashment, who was then a fifth grade student in the Lincoln County (Wyoming) School District, No. 2, and who is the son of Mr. and Mrs. Jody Ashment.

The matters which I will discuss below, including names and all other information contained in this letter, are matters of public record.

Mr. and Mrs. Ashment are the parents of four children, Troy being the second oldest child, and being eleven years old at the time of the incident described herein. Troy was described by his parents as being a kind, sensitive child, who was not a disciplinary problem at home, or at school, and who made average grades in school.

As the end of the school year approached, in May, 1984, Troy's fifth grade teacher, Mr. Eldon Louder, scheduled certain standardized testing for the students in his class. Mr. Louder announced to the class, in advance of the testing, that if each student received a test score of 80%, or better, he would reward the class with a "free day," prior to the end of the school year.

Miss Kathy White  
January 18, 1989  
Page Two

Despite having studied extensively in preparation for the examinations, Troy was able to attain only a score of 79%. In addition, two other students in the class received grades lower than 80%. On the day following the examination, as Mr. Louder returned test papers to the students in the class, Mr. Louder announced that there would be no "free day" because Troy and the two other students, both young boys, had received scores lower than 80%.

Subsequently, Mr. Louder announced to the class that he had come up with a plan by which the class could, once again, earn a "free day." Mr. Louder's plan was that if each of the 19 students who had received grades of 80%, or higher, would paddle the three students who had received grades below 80%, Mr. Louder would reward the class with the "free day." Mr. Louder also stated to the class that the paddling would not be done unless every member of the class agreed.

Unbeknownst to Mr. Louder, the three students planned with the other members of the class to have the paddling administered to them, but with the understanding that each of the 19 paddlers would administer very light blows, so as to inflict no pain upon the three students being paddled. The class then told Mr. Louder that everyone agreed to the paddling, and Mr. Louder responded that the paddling would be done on the following day, May 23, 1984.

On that date, Mr. Louder obtained from another classroom a wooden paddle, and instructed that the paddling should begin. When the first child went to the front of the classroom where the paddlings were to be done, the child administered a very soft blow, with the paddle, to the buttocks of one of the three recipients. At that point, Mr. Louder took the paddle from the first paddler and instructed that child to bend over and grab his ankles, whereupon Mr. Louder delivered a resounding blow to the buttocks of that child, instructing the class that the paddling was to be done in the manner he had just demonstrated. At that point, the paddling continued, each of the three children receiving 19 very hard blows to the buttocks, with the wooden paddle. (The evidence in the case was conflicting as to whether or not Mr. Louder also administered blows to the buttocks of the three recipients.)

A portion of the paddling procedure was witnessed by another teacher in the school, although no person made any attempt to intervene.

Miss Kathy White  
January 18, 1989  
Page Three

The following day, Troy was seen by the family's doctor, Vaughn M. Morgan, M.D., of Afton, Wyoming, who, in accordance with Wyoming law, reported the incident as an instance of child abuse, to the office of the Lincoln County Attorney. (The Lincoln County Attorney chose not to investigate and not to take any action concerning the incident.) Dr. Morgan wrote, on May 25, 1984,

Troy's physical exam does indicate that he was severely beaten. Even in the numerous child abuse cases that I have been involved in in the previous parts of my career, I have never seen any bruising that is more severe than what Troy has suffered.

Although Troy's bruising was very severe, Troy apparently suffered no permanent physical injury.

This incident occurred despite the fact that Lincoln County School District, No. 2 had previously enacted a written policy regarding the administration of corporal punishment, a policy with which Mr. Louder was familiar at the time of the beating. The policy is as follows:

Reasonable corporal punishment may be administered after consultation with the Principal, and only in the presence of another professional staff member. Reasonable corporal punishment shall be used only as a last resort in unusual circumstances and after other corrective measures have been used without success. If possible, parents will be advised of the use of corporal punishment and the supportive reasons thereof. A staff member may, however, use reasonable physical force against a pupil without advance notice to the Principal when it is essential for self defense, the preservation of order, or for the protection of other persons or property. Subsequent to such occasions, the Principal shall be notified.

In Troy's case the punishment was not done after consultation with the Principal and, for the most part, was not done in the presence of any other professional staff member of the School District. In addition, it was clear that the corporal punishment was not reasonable under the circumstances and was not used as "a last resort in unusual circumstances and after other corrective measures [had] been used without success."

Miss Kathy White  
January 18, 1989  
Page Four

Furthermore, Troy's parents were not "advised of the use of corporal punishment," nor were they advised of the "supportive reasons."

No person, including Mr. Louder, alleged at any time that the administration of this physical force was done "for self defense, the preservation of order, or for the protection of other persons or property."

The reaction of Mr. Louder and of Dr. J. Allen Lowe, School Superintendent, was one of denial, not that the incident had occurred, but, rather, denial that the incident was of any great significance or that the incident was particularly inappropriate.

Troy was subsequently tested by Irwin A. Hyman, Ed.D., of Temple University, who concluded that Troy suffered post-traumatic stress disorder, specifically as the result of the beating which he endured in May, 1984. Troy was expected to require substantial counselling in order to recover from that disorder.

On September 11, 1985, I filed suit on behalf of Troy, and his parents, against Mr. Louder and the Lincoln County School District, No. 2, in the District Court, Third Judicial District, Lincoln County, Wyoming, alleging damages to Troy and his parents on several issues, including assault and battery, intentional infliction of emotional distress, and violation of civil rights.

Several months later, the case was settled for a sum substantially in excess of \$20,000.00.

Prior to my involvement with the Troy Ashment case, my own feelings regarding corporal punishment in the schools were neutral; and if I had been pressed, I probably would have agreed that, in some circumstances, corporal punishment is necessary and appropriate.

However, following my involvement in that case, and based upon the research, and reading, of voluminous scholarly articles and books written on the subject, my opinion has changed. I believe that corporal punishment in the schools is not appropriate and should not be permitted.

Miss Kathy White  
January 18, 1989  
Page Five

While the arguments of various psychologists, psychiatrists, educators, and others are very persuasive, from a medical, psychological, and scientific standpoint, there is yet another reason why I believe that corporal punishment should not be permitted in our schools. That reason is the financial cost of corporal punishment.

As I stated earlier, corporal punishment is lawful in the state of Wyoming. In addition, the Lincoln County School District, No. 2 had adopted written procedures relative to the administration of corporal punishment to students in the school system. Furthermore, the teacher responsible for the administration of corporal punishment to Troy Ashment, and two other students, on May 23, 1984, was very familiar with that policy.

Yet, despite the safeguards which were in place, Troy and two of his young classmates were severely beaten, for no purpose whatsoever, other than for the satisfaction of some unknown desire of the teacher in charge.

The event exposed the teacher, the school administrators, the members of the school board, and the school district to substantial liability for no valid educational purpose. It would certainly not be far-fetched to contemplate a similar case where the child might receive severe and permanent injuries, thereby leading to exposure of one hundred times the magnitude of the Troy Ashment case.

My point is that, regardless of safeguards that might exist, corporal punishment procedures can be, and often are, abused. When corporal punishment procedures are abused, and a child is injured, that injury must be compensated under our legal system.

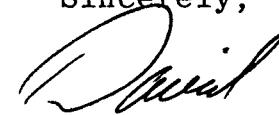
When that happens, the cost of the education of our children goes up. Surely there are other aspects of educating our children that are more deserving of our tax dollars than the payment of damages incurred by the victims of corporal punishment.

Miss Kathy White  
January 18, 1989  
Page Six

I hope you are successful in your efforts to eliminate corporal punishment in Montana.

Best wishes.

Sincerely,

A handwritten signature in black ink, appearing to read "David" or "C. David".

C. David Clauss

CDC/sb

## TESTIMONY IN SUPPORT OF SB 378 BY MARK TAYLOR, M.A., L.P.C.

I am Mark Taylor. I am here to testify in favor of SB 378, a bill to prohibit corporal punishment in the schools.

- I reside at 415 Highland Park Drive, Billings, Montana. My testimony is based on my *ten years of professional experience*: in schools, in institutional care — working with abused children, and as a mental health center counselor. I am a *certified teacher and school psychologist*, and a *licensed professional counselor*. As a school psychologist working in special education cooperatives, I have worked in more than 30 different school districts in Montana. My judgements, based on clinical experience, are supported by additional research I have done.

#### The issue of "equal protection"

- Corporal punishment is *often applied without respect to "equal protection*. " This is so because *most school districts either have no clear discipline policy*, or have not communicated their policy to administrators, staff, and students. Within districts, different administrators use corporal punishment to different degrees, *depending more on the personality of the administrators than on the behaviors of the students*. As a result, corporal punishment is often applied differently to different students.
- *Lower class and minority children are more often the target of corporal punishment in the schools than are middle class white children.*

#### Harmful effects

- Corporal punishment in the schools is too *often directed toward disturbed, abused or neglected children*, and it is especially devastating to those children. They receive it because they often misbehave as a symptom of their abuse. These are children who most need our nurturing, protection, and guidance.
- Corporal punishment in school *causes severe psychological damage to many children who are not exposed to corporal punishment at home*. The novelty of corporal punishment for these children means they have developed no way to cope with the distress it causes.
- *Corporal punishment in the schools is medically dangerous*. About 20,000 injuries, many requiring a doctor's attention, were reported in 1986-87. Permanent, crippling injuries are reported every year.

## TESTIMONY IN SUPPORT OF SB 378 BY MARK TAYLOR, M.A., L.P.C.

- *Forms of corporal punishment which I have personally observed in Montana schools include: dragging by the hair or arm, forcing strenuous exercise, locked "time out" room, forcing the student to maintain painful bodily postures, pinching, poking, use of police handcuffs, shaking, kicking, slamming into lockers or desks, slapping, and spanking.*
- *In many children, it causes harmful side effects, such as aggression, preoccupation with seeking revenge, and avoidance of school. It causes truancy, drug abuse, drop-outs, and vandalism.*
- *It is impossible to predict which child will be able to cope easily with corporal punishment in the school, and which will be seriously harmed.* No school district would deliberately expose a child to danger, but this is what happens when corporal punishment is used. Not all children will be harmed, but the practice is dangerous and the results are unpredictable.

### **Undermines a school's effectiveness**

- *Corporal punishment undermines a school's effectiveness by reducing the sense of safety in the environment.* A psychologically "safe" environment is a characteristic of every effective school.
- *It disrupts learning,* as many children in the school become more concerned with "who's next?" rather than their studies.

### **Parents' rights**

- *Current law does not respect the wishes of parents who object to the school spanking their children.* *under the law - up to the district.*

### **Good alternatives are available**

- *Many safe, effective alternatives are available.* Use of corporal punishment, however, makes these alternatives less effective. Corporal punishment is an *unneeded, dangerous option.*
- *Proven, effective alternatives include: positive reinforcement for children who are behaving as desired, mild punishments such as verbal reprimands or loss of privileges, and social skills training,* which treats misbehavior as a skill deficit which can be remediated by good teaching.

*MT Book on Alternatives*

## **Who is against corporal punishment in schools?**

Nationally and internationally:

American Academy of Child Psychiatry  
American Academy of Pediatrics  
American Association for the Protection of Children  
American Association of Counseling and Development  
American Bar Association  
American Medical Association  
American Orthopsychiatric Association  
American Psychological Association  
American Public Health Association  
Association for Childhood Education International  
Association of Junior Leagues  
Child Welfare League of America  
Council for Exceptional Children  
European Court of Human Rights  
Friends Committee on National Legislation  
Montana Association of School Psychologists  
Montana Parent Teachers Association  
National Association for the Advancement of Colored People  
National Association of School Psychologists  
National Association of Social Workers  
National Committee for Citizens in Education  
National Committee for the Prevention of Child Abuse  
National Congress of Parents and Teachers  
National Council for Exceptional Children  
National Council of Teachers of English  
National Education Association  
National Indian Education Association  
National Mental Health Association  
National Network of Runaway and Youth Services  
National Parent Teachers Association  
Society for Adolescent Medicine  
United States Surgeon General

## **Where is corporal punishment illegal?**

Domestically, corporal punishment is illegal in:

New Jersey (since 1867), Massachusetts, Hawaii, Rhode Island, Maine, New Hampshire, Vermont, New York, California, Nebraska, Wisconsin, District of Columbia, Puerto Rico, overseas military bases

Internationally it is forbidden in at least 19 countries including:

All of Europe, all communist countries, Israel, Japan

WITNESS STATEMENT

NAME: Mark Taylor DATE: 2-13-89

DATE: 2-13-89

ADDRESS: 415 Highland Park Drive, Billings, MT 59102

PHONE: 259-4482

REPRESENTING WHOM? Montana Association of School Psychologists

APPEARING ON WHICH PROPOSAL: SB 378

DO YOU: SUPPORT? X AMEND? \_\_\_\_\_ OPPOSE? \_\_\_\_\_

COMMENTS: See prepared statement.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

# MONTANA COMMITTEE FOR PREVENTION OF CHILD ABUSE



SENATE EDUCATION

EXHIBIT NO. 1C

DATE 2-13-89

SLN NO. SB 378

P.O. Box 20152

Billings, MT 59104

*Carol McCaroll*

February 9, 1989

Senate Education Committee  
Capitol Station  
Helena, MT 59601

Dear Committee Members:

On behalf of the children of Montana, the Montana Committee for Prevention of Child Abuse urges you to pass legislation abolishing corporal punishment in our schools and children's institutions.

With so much violence surrounding our children in today's society, it is critical that we support teachers in our educational system who serve as appropriate role models for guiding and teaching our children through non-violent techniques.

Our most gifted and capable teachers throughout the state have never found it necessary to resort to physical punishment, and they are untapped resources for teaching less able teachers new methods for guiding our children towards self discipline.

We recognize that there are rare exceptions when physical restraint is necessary to protect others from harm, and those exceptions are addressed in the legislation before you.

The Montana Committee encourages the Senate Education Committee to take the lead in passing this legislation and join the other eleven states in our nation who are truly committed to children's rights and ending violence against our children.

Yours for Children,

*Susan Sandwell*  
Susan Sandwell, PHN, President  
Montana Committee for Prevention of Child Abuse

## CORPORAL PUNISHMENT

Whereas, The first object of the PTA is to promote the welfare of children and youth in home, school, community and place of worship; and

Whereas, The third object of the PTA is to secure adequate laws for the care and protection of children and youth; and

Whereas, Corporal punishment has been abolished in many developed countries of the world and in several areas of the United States; and

Whereas, Even the U.S. Supreme Court has supported the legality and constitutionality of "reasonable force" while eliminating corporal punishment from many institutions other than schools; and

Whereas, Many school districts in Montana do not have policies prohibiting corporal punishment nor viable alternatives in place; and

Whereas, Many alternatives to corporal punishment as a disciplinary measure are available, and for the most part have a more beneficial effect; therefore be it

RESOLVED That the Montana Congress of Parents and Teachers make available to units and councils information on corporal punishment laws, procedures, and alternatives; therefore be it further

RESOLVED That the Montana Congress of Parents and Teachers establish a position opposing corporal punishment in accordance with the Health and Welfare Policies of the National PTA; and be it further

RESOLVED That the Montana PTA through its local units and councils work with school districts to develop disciplinary procedures which will result in positive behavior of students and utilize positive alternative techniques.

Legislative note: This resolution has both legislative and policy intent...local units are asked to work with their school districts to develop more positive alternatives in disciplining school students. Alternatives to corporal punishment as a disciplinary measure will be printed in the fall MPTA Bulletins.



# NCPCA FACT SHEET

**National Committee for Prevention of Child Abuse**

332 S. Michigan Ave., Suite 950, Chicago, IL 60604, (312) 663-3520

No. 8

Date August, 1988

## Corporal Punishment and Schools

What is corporal punishment?

Corporal punishment may be generally defined as the inflicting of pain on the human body as a penalty for doing something which has been disapproved of by the punisher. The infliction of pain is not limited to striking a child with a paddle or other instrument, but includes any unnecessary excessive discomfort, such as forced standing for an excessively long period of time, confinement in an uncomfortable space, or forcing children to eat obnoxious substances.

Corporal punishment is not implied when force or physical restraint is used in order to: 1) protect someone from physical injury; 2) obtain possession of a weapon or other dangerous object; or, 3) to protect property from damage.

Is corporal punishment in schools legal?

In the United States, the majority of public schools allow the use of punishment based on authority from state statutes or local regulations. The United States is one of the few industrialized countries which legally allows corporal punishment to be used in its schools.

Corporal punishment is prohibited in eleven states and the District of Columbia. Of these, six states--California, Massachusetts, Nebraska, New Jersey, Vermont, and Wisconsin--have legislated the prohibition. In four states--Maine, Hawaii, New Hampshire, and New York--the state board of education has by regulation abolished corporal punishment. In the remaining state, Rhode Island, each of the state's school boards has implemented an anti-corporal punishment policy. In addition, many local school boards in other states have forbidden the use of corporal punishment.

Is corporal punishment used in a significant number of cases?

Yes; data collected by the U.S. Department of Education, Office for Civil Rights, indicated that there were over one million recorded cases of corporal punishment in the 1985-86 school year. However, the actual number of cases is estimated to be at least two times that figure.

Is corporal punishment used in institutions other than schools?

Physical punishment is not allowed in prisons, the military, or in mental hospitals. Physical punishment is considered too severe for criminals of all kinds and ages, soldiers, servants, and in some cases, even for animals; yet, it is legal and acceptable to physically punish school children.

What is NCPCA's position on corporal punishment?

The Board of the National Committee for Prevention of Child Abuse has adopted the following position statement: "The National Committee for Prevention of Child Abuse opposes the use of corporal punishment in schools and custodial settings and supports the use of appropriate disciplinary alternatives, and further supports the adoption of state and local legislation to prohibit corporal punishment in schools and all other institutions, public or private, where children are cared for or educated."

Many other organizations have taken similar positions including: American Academy of Pediatrics, American Bar Association, American Public Health Association, American Psychological Association, National Association of Social Workers, and National Education Association.

## **Acknowledgment**

This fact sheet is a public service from NCPCA that has been made possible through grants from the Sigma Delta Tau Sorority. Fact sheets are issued periodically on a variety of subjects as needs arise. Fact sheets may be reproduced without notice to NCPCA; however, we request

Why should corporal punishment be abolished in school and custodial settings?

1) The use of corporal punishment is likely to train children to use physical violence to control behavior.

2) The goals of education, training and socialization of children can be achieved without resorting to physical violence.

3) Research indicates that corporal punishment impairs the responsible development of children, interferes with learning, and increases the likelihood of vandalism and student aggression in schools.

4) By law, certain acts of physical force against an adult constitute a criminal act of assault and battery. These same acts against a child do not. There is no moral justification for decriminalizing such an act simply because the victim is a child.

5) Corporal punishment is often used capriciously and with bias by educational officials. Researchers have demonstrated that the smallest and most vulnerable students in the classroom are most likely to be corporally punished. Also, statistics reveal that students who live in poverty or have special learning problems are at higher risk of receiving corporal punishment and that a disproportionate number of black students are victims of corporal punishment.

6) The availability of physical punishment discourages teachers from seeking more effective means of discipline.

7) A national policy dedicated to the eradication of child abuse, which legally mandates educators to report parents for abuse of their children, is paradoxical with the existence of legally permitted corporal punishment in educational and custodial institutions.

8) Schools serve as an example for parents and children. Schools which allow corporal punishment not only reflect the values of American families but also influence familial attitudes and practices.

What can be done to abolish corporal punishment in schools?

- Work with state legislature to pass laws against corporal punishment where none exist.

- Work with local and county Boards of Education to adopt policies prohibiting corporal punishment.

- Work with local school administrators to adopt a policy in opposition to corporal punishment, or at a minimum get them to document cases of corporal punishment.

- Work through the local PTA to effect school policies.

- Work with the local teachers' organization, bringing to bear the National Education Association's position on the issue.

- Encourage other organizations and institutions to take a position against corporal punishment.

- Educate parents and the public about the existence of the problem.

## Resources

In addition to NCPCA, the following organizations can provide helpful information and assistance:

National Coalition to Abolish Corporal Punishment in Schools (NCACPS), 750 Brookside, Suite 107, Westerville, Ohio 43081, (614) 898-0170.

The Committee to End Violence Against the Next Generation (EVAN-G), 977 Keeler Avenue, Berkeley, CA 94708, (415) 527-0454.

National Center for the Study of Corporal Punishment and Alternatives in the School, 253 Ritter Hall South, Temple University, Philadelphia, PA 129122, (215) 787-6091.

**State Corporal Punishment Law  
Summary Chart**

	PROHIBITED		ALLOWED		DETERMINED	PENDING LEGISLATION
	BY STATUTE	BY REGULATION	BY STATUTE	BY REGULATION	AT LOCAL LEVEL	
ALABAMA					X	
ASKA					X	
RIZONA			X			
KANSAS			X			
ALIFORNIA	X					
OLORADO					X	
NECTICUT			X			
ELAWARE			X			
ST. OF COLUMBIA	X					
FLORIDA			X			
ORGIA					X	
WAII		X	X			
AHO					X	
LINOIS			X			
DIANA			X			
NA					X	X
NSAS					X	
NTUCKY					X	
CUISITIANA			X			
INE	X					
RYLAND					X	X
SSACHUSETTS	X					
MICHIGAN			X			X
MINESOTA			X			X
MISSISSIPPI					X	

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/88

	PROHIBITED		ALLOWED		DETERMINED	
	BY STATUTE	BY REGULATION	BY STATUTE	BY REGULATION	AT LOCAL LEVEL	PENDING LEGISLATION
MISSOURI			X			
MONTANA			X			
NEBRASKA	X					
NEVADA						X
NEW HAMPSHIRE		X				
NEW JERSEY	X					
NEW MEXICO					X	
NEW YORK		X				
NORTH CAROLINA			X			
NORTH DAKOTA			X			
OHIO			X			X
OKLAHOMA			X			
OREGON			X			
PENNSYLVANIA			X			X
RHODE ISLAND*		X			X	
SOUTH CAROLINA			X			
SOUTH DAKOTA			X			
TENNESSEE			X			
TEXAS			X			
UTAH			X			
VERMONT	X					
VIRGINIA			X			
WASHINGTON			X			
WEST VIRGINIA			X			
WISCONSIN	X					
WYOMING						X

\* Prohibited by regulations in each individual school district.

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Explanation of State Corporal Punishment  
Law Summary Chart

This chart is designed to briefly summarize the current status of corporal punishment law in each of the United States. Corporal Punishment for this purpose means disciplinary punishment as opposed to the force that may be necessary or allowable to restrain a child from injuring persons or property. Clearly, the majority of states have in place some statute or school board regulation allowing such punishment in some form. Of those, most require or at least request that the local school districts develop specific written guidelines or policies detailing the circumstances under which corporal punishment is proper. In most cases the local school district is also authorized to prohibit or restrict the use of the practice on a local level.

The guidelines of the states and various local districts vary widely in terms of specificity and prerequisites to punishment. All require that the punishment be reasonable. The punishment may not be administered with malice or anger. Most states require an adult witness to the punishment. Also, in most states only a teacher, principal or other certified person may administer the punishment. A number of states also require that the punishment only be used as a last resort, after all other measures have been exhausted.

Parental permission to punish is typically not required. However, parental requests not to spank are usually heeded. In any case, most states require that parents be notified that their children may be corporally punished.

To reiterate, this chart is only a brief synopsis of the law. In order to obtain more detailed information about the specific practices in your state, we suggest that you consult the relevant statute and local school board policy.

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8/88

THIS TESTIMONY IN SUPPORT OF SB 378 IS PRESENTED BY CYNTHIA R. SB 378  
BUEHL, COUNSELOR III AT THE YOUTH SERVICES CENTER IN BILLINGS, AN  
ACUTE CRISIS CARE FACILITY FOR ADOLESCENTS. I HAVE WORKED WITH  
TROUBLED YOUTH SINCE 1976 AS A DIRECT CARE PROVIDER, RESIDENTIAL  
PROGRAM MANAGER, FACILITY DIRECTOR, AND CONSULTANT TO SCHOOLS. I  
FIRMLY BELIEVE THAT CORPORAL PUNISHMENT MUST BE ELIMINATED FROM  
OUR SCHOOLS.

Children in crisis are even more vulnerable to the negative effects of corporal punishment than the average student. Coming from dysfunctional families, they may be severely abused, homeless, neglected, impoverished, at risk for developing emotional problems, and often without adults who can defend their rights.

Corporal punishment in schools, by compounding any existing family abuse, is enough to push some children over the edge into hopelessness and helplessness, or social rebellion. These same high-risk children, the ones who most need support and teaching from caring adults, are the most likely to receive corporal punishment because they misbehave in schools more often than other children.

Paddling has been shown to harm a child's sense of identity and self-image, especially if the child has a history of alienation and abuse. Symptoms of childhood depression are seen more frequently in children with whom physical punishment is often used.

Add to this the potential for lasting psychological damage or physical harm. Being hit by an adult with a paddle is a traumatic event for children. Physical symptoms such as nausea and vomiting have occurred. Children have been physically hurt by well-meaning adults. At best, the child experiences humiliation at a time when he most needs corrective instruction.

"Since corporal punishment tends to produce fear and anger," says Ralph S. Welsh of the National Council on Crime, "its continued use can only be counterproductive to the learning process."

Corporal punishment has been eliminated from other institutions in the United States. Judges, for example, cannot sentence criminals to be spanked; military officers cannot hit soldiers; workers in residential child care institutions cannot routinely swat children. But in Montana physical punishment is still acceptable in our schools.

Dozens of organizations have taken a stand opposing corporal punishment in schools. The Montana PTA followed the lead of its parent organization in passing a resolution that opposes corporal punishment. The Montana Association of School Psychologists has spoken clearly against this practice. Dozens of national groups, in-

cluding the National Education Association (NEA), have taken similar stands.

In my research through more than 170 magazine and journal articles, I was overwhelmed by arguments *against* the use of corporal punishment. It has been shown time and again that hair pulling, jerking, pinching, pushing, shaking, shoving, slapping, spanking, or swatting is harmful to children, and ultimately doesn't work.

The four articles I found defending these practices did not suggest that corporal punishment is good for children. At best, arguments supporting the spanking of children in school say it is a "needed option." Needed for the convenience of adults, not for the benefit of children.

Studies from schools in places as diverse as Khartoum, Sudan; London, England; and Portland, Oregon, have found that physical punishment leads to vandalism, retaliation, anger, and more misbehavior.

Corporal punishment creates a negative model of behavior, according to C. Everett Koop, M.D., U.S. Surgeon General, and increases the cultural acceptance of violence in America. Instead of learning more productive coping skills, the child learns that violence as an acceptable solution to problems and learns to imitate corporal punishment.

Educators, as experts in child development and education, have a role in setting an example for all to follow. They have an obligation to encourage the most effective and advanced methods of child management.

Many good alternatives are available. Once learned, these methods easily can be applied in any classroom anywhere. In classrooms where there is an atmosphere of mutual respect, the effectiveness of teachers and students is at a maximum. These classrooms tend to be desirable places, making milder responses to behavior influential.

My conclusion is clear: **Corporal punishment of students is harmful, and has no place in our schools.**

**WITNESS STATEMENT**

NAME: CINDY BUEHL DATE: 2-13-89

DATE: 2-13-89

ADDRESS: 415 HIGHLAND PARK DRIVE BILLINGS, MT 59102

PHONE: 259-4482

REPRESENTING WHOM? YOUTH SERVICES CENTER / SELF

APPEARING ON WHICH PROPOSAL: \_\_\_\_\_

DO YOU: SUPPORT?  AMEND?  OPPOSE?

COMMENTS: see attached

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

SENATE EDUCATION  
EXHIBIT NO. 1 B  
DATE 2-13-89  
BILL NO. SB 378

WITNESS STATEMENT

NAME JUDITH CARLSON BUDGET \_\_\_\_\_

ADDRESS HELENA

WHOM DO YOU REPRESENT? MT CHAPTER, NATL ASSN OF SOCIAL WORKERS

SUPPORT SB 378 OPPOSE \_\_\_\_\_ AMEND \_\_\_\_\_

COMMENTS: \_\_\_\_\_

MANy SOCIAL WORKERS WORK FOR PUBLIC AGENCIES  
SEEING CHILD ABUSE DAY AFTER DAY - TRYING TO  
PROTECT CHRN - + OTHER SOCIAL WORKERS IN  
PRIVATE PRACTICE SEEING CLIENTS IN THERAPY -  
NEEDED BECAUSE OF ABUSE AS CHRN.

SUPPORT 378 - NO NEED FOR TEACHERS TO  
HIT, SPANK, OR WHIP A CHILD - 90% OF  
CORPORAL PUNISHMENT IS INFlicted BY  
ONLY 5% EDUCATORS

ALL RESEARCH IN EDUCATION + PSYCHOLOGY  
SHOWS NO BENEFIT IN USE OF CORPORAL  
PUNISHMENT + LONG-TERM HARM IS EVIDENT

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

# MOUNTAIN VIEW SCHOOL



TED SCHWINDEN, GOVERNOR

SENATE EDUCATION

EXHIBIT NO. 1

DATE 2-13-89

BILL NO. SB 360

2260 SIERRA ROAD EAST

## STATE OF MONTANA

(406) 458-9016

HELENA, MONTANA 59601

February 13, 1989

### TESTIMONY IN SUPPORT OF SB 360

Submitted by Bill Unger  
Superintendent of Mountain View School

A 1987 Supreme Court decision stated the teachers at Mountain View School and Pine Hills School did not meet the 20-1-101 (18) MCA definitions of a teacher; therefore, they become eligible for all benefits afforded other state employees, to include holiday pay and vacation. Prior to this decision, the teachers were treated as teachers in a public school district; i.e., they were paid a salary for 185 days, they did not earn vacations, and they were not paid for holidays.

The purpose of SB 360 is to eliminate holiday pay and vacations for teachers at Mountain View School and Pine Hills School, thus allowing both schools to treat their teachers similar to those in the public schools. If teachers earn vacation time as other state employees, they would be entitled to 11 days or more vacation (depending on the years as a state employee). It would be very disruptive to classroom curriculum for each teacher to have 11 days vacation, in addition to their sick leave, during

the 185 school days. Currently, the teachers do not work any state holiday, nor would they with the passage of SB 360.

During discussion with teachers at Mountain View School, they have consistently stated their desire to be treated as teachers in the public schools. They went to school to be teachers, they applied and were hired as teachers, and they want to be treated as teachers. They currently are rated as .72 FTE state employees, which amounts to 185 8 hour days. Teachers at Mountain View School are required to be on the job site an average of 6 1/2 hours a day, instead of 8 hours, as required of other state employees. If they are to be treated as state employees, it is not to their advantage or Mountain View School's to have them on the site for an 8 hour day, as they can only have 28 hours a week teacher/student supervisory responsibility per Montana School Accreditation Standard (304.5).

If SB360 to eliminate teacher holiday pay and paid vacation is not passed, the cost would be approximately \$27,000 at Mountain View School and \$54,000 at Pine Hills School per <sup>bicennum</sup> year to fund the vacation and holiday pay teachers would then earn. This amount of money would make the institutional salaries of teachers comparable to those of public schools. Teachers at Mountain View School are currently being paid the salary appropriated by the 50th legislature.

If additional compensation is the intent by not passing SB 360, consider adjusting teacher salaries to reflect that increase instead of giving them vacation and holiday pay, which would allow the institution to treat teachers as teachers. The Department of Family Services asks that you give SB 360 your favorable consideration.

85-87

Pine Hills

SENATE EDUCATION

EXHIBIT NO. 2

DATE 2-13-89

BILL NO. SB 360

COLLECTIVE BARGAINING AGREEMENT BETWEEN  
THE STATE OF MONTANA  
AND  
THE PINE HILLS EDUCATION ASSOCIATION

*W. Martin*

IN THE DISTRICT COURT OF THE FIRST  
JUDICIAL DISTRICT OF THE STATE OF MONTANA  
IN AND FOR THE COUNTY OF LEWIS AND CLARK

SENATE EDUCATION

EXHIBIT NO. 3

2-13-89

SB 360

MOUNTAIN VIEW EDUCATION  
ASSOCIATION

Plaintiff,

v.

MOUNTAIN VIEW SCHOOL,  
DEPARTMENT OF INSTITUTIONS,  
STATE OF MONTANA

CAUSE NO. BVD 85-239

Defendant,

AND

DEPARTMENT OF ADMINISTRATION,  
STATE PERSONNEL DIVISION

Intervenor,

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#### DECISION AND ORDER

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There is a single legal issue in this case: whether the people employed by the state at Mountain View School to instruct the girls are statutory "schoolteachers" under section 2-18-601 (2), MCA and therefore excluded from the fringe benefit provisions of Title 2, Chapter 18, part 6, MCA.

The state argues one should use the "common sense" definition of "schoolteachers" and as these people definitely do teach the girls at Mountain View they should be excluded from the fringe benefits applicable to other state employees.

The Mountain View Education Association, representing the individuals involved, argues for the use of the statutory

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DECISION AND ORDER - Page 1

CLERK OF DISTRICT COURT

BY NANCY SWEENEY

definition of "teacher" found in the education title of the code, section 20-1-101(20), MCA. This definition restricts "teachers" to those with state teaching certificates who are employed by school districts.

It is undisputed that the Mountain View instructors are employed by the State of Montana, not a school district.

The Association relies on Rippey v. Flathead Valley Community College, \_\_\_ Mont. \_\_\_, 682 P.2d 1363, 41 St.Rptr.1117, 3 St.Rptr. Ed.L.111, 18 Ed.L.Rptr.445 (1984); the state, citing the same case, draws a different conclusion.

In Rippey the issue was whether the community college faculty were excluded "schoolteachers". The court discussed the history of community colleges, tracing their development from the period when such post secondary education was funded and administered by high school districts to the present when the community colleges are under the Board of Regents and are partially financed by the state's general fund, separately from the school foundation program.

The court then set forth the statutory provision for interpretation, section 1-2-106, MCA, and the definition of "teacher" in the education title.

Words and phrases used in the statutes of Montana are construed according to the context and the approved usage of the language, but technical words and phrases and such others as have acquired a peculiar and appropriate meaning in law or are defined in chapter 1, part 2, as amended, are to be construed according to such peculiar and appropriate meaning or definition.

Section 20-1-101(20)MCA states:

"Teacher" means any person, except a district superintendent, who holds a valid Montana teacher certificate that has been issued by the superintendent of public instruction under the provisions of this title and the policies adopted by the board of public education and who is employed by a district as a member of its instructional, supervisory, or administrative staff.

The court concluded that the faculty at Flathead Valley Community College were not "schoolteachers", particularly because they are responsible to the Board of Regents.

This court considers itself bound by the state Supreme Court's decision in Rippey. The instructors at Mountain View are not employed by a school district, they are state employees whose salaries are entirely funded by the state.

While only personnel at Mountain View are involved in this particular litigation, counsel for both parties stated during oral argument that the decision in this case would apply to similarly situated individuals at Pine Hills School.

The court, therefore, enters the following

ORDER

Individuals employed to teach at Mountain View School are not statutory "schoolteachers" under section 2-18-601(2), MCA and are entitled to benefits provided for other state employees under Title 2, Chapter 18, part 6, MCA.

DATED this 12<sup>th</sup> day of August, 1986

GORDON R. BENNETT

Gordon R. Bennett, District Judge

772  
23  
No. 86-521

IN THE SUPREME COURT OF THE STATE OF MONTANA

1987

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MOUNTAIN VIEW EDUCATION ASSOCIATION,

Plaintiff and Respondent,

-vs-

MOUNTAIN VIEW SCHOOL, DEPARTMENT OF  
INSTITUTIONS, STATE OF MONTANA,

Defendant and Appellant,

and

DEPARTMENT OF ADMINISTRATION,  
STATE PERSONNEL DIVISION,

---

APPEAL FROM: District Court of First Judicial District,  
In and for the County of Lewis & Clark,  
The Honorable Gordon Bennett, Judge presiding.

COUNSEL OF RECORD:

3,81  
1,1  
MPLW  
T,2  
H,4  
For Appellant:

Nick Rotering, Dept. of Institutions, Helena, Montana  
Kathleen F. Holden, Dept. of Administration, Helena

For Respondent:

Hilley & Loring; Emilie Loring, Great Falls, Montana

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Submitted on Briefs: Feb. 26, 1987

Decided: June 26, 1987

JUN 26 1987  
Filed:

Ethel M. Thorsen  
Clerk







# THE MONTANA UNIVERSITY SYSTEM

33 SOUTH LAST CHANCE GULCH  
HELENA, MONTANA 59620-2602  
(406) 444-6570

SENATE EDUCATION

EXHIBIT NO. 1

DATE 2-13-89

BILL NO SB 292

COMMISSIONER OF HIGHER EDUCATION

TO: Senate Education Committee  
FROM: Jack Noble *OKH*  
Deputy Commissioner for Management and Fiscal Affairs  
DATE: February 13, 1989  
SUBJECT: Testimony in Opposition to SB 292

The issue of service payback has been discussed in the legislature since the inception of the WICHE program in 1954. Montana has always rejected the concept as costly, inequitable, and contrary to the original purpose of the programs.

The Board of Regents reviewed the pros and cons of service payback and unanimously reaffirmed its opposition to any form of a service payback requirement in a resolution passed on December 12, 1986.

In stating our opposition to payback, I would like to briefly touch on the original purpose of the WICHE and WAMI programs. In the 1950's, it was evident that Montana could not begin to afford to offer educational programs in the health related fields. The cost of a medical school facility in those days was purported to be in excess of \$40 million. (Now over \$100 Million.) Dental and veterinary medicine facilities were not much cheaper. States that had invested those sums to provide educational opportunity in those fields jealously guarded access and the overwhelming political sentiment in the receiving state was to bar nonresidents from admission. The concept of WICHE was borne out of the need to provide educational access to "have not" states like Montana.

The program has been a reasonable success. While Montana still ranks near the bottom (42nd) in medical admissions per 100,000 population, we have avoided necessary health related programs in Montana. The support cost per student would appear to be high in medicine, dentistry and veterinary medicine. However, Montana is still getting a bargain compared to the cost borne by the receiving state. We must not lose sight of this fact.

Speaking directly to the payback requirement, I would offer the following objections:

1. It is inequitable. We have programs within the university system that are as costly as the support costs for some of the WICHE fields. We do not require these students to pay back their state supported share of the cost. If the payback concept is valid, why should it only apply to these particular programs and not all publicly supported fields.

2. Some feel that the program recipients will make high incomes and thus can afford to pay it back. The spectrum of potential earning power of WICHE students varies considerably. Medical doctors' incomes in Montana are wide ranging depending on type of practice and location. Those in occupational therapy and public health do not have income potential any greater than many of our other professional fields. If doctors, dentists, and veterinarians must pay back their support--why not engineers, accountants, lawyers, school teachers, etc. The equity problems are nearly insurmountable if equal treatment is any criterion for educational policy.
3. The people with the higher incomes, all factors being equal, should pay a higher rate of income taxes under both federal and Montana tax laws. Thus, they contribute more to the state to provide an on-going public education system as well as pay for other social needs. Why should higher income people pay both a higher rate and be forced to pay back their public higher education costs?
4. While the state may be able to eventually reduce costs, the cost reduction will be a long time coming. For instance, a payback for beginning medical students starting medical school in the Fall of 1989 will not start payback until fiscal year 1996 assuming the student must complete his or her residency requirements before opening a practice. We would have to track the location of a medical student for 20 years under SB 292.
5. The state must incur the loan servicing administration costs of maintaining contact with the student and obtaining all the legal documents required that will enforce the collection. Thus, the state will "lose" money for several years before the cost reduction will take effect. (See fiscal note.)
6. The proposal does not take into consideration the ability of the student to make the future payments. Average indebtedness of a medical school graduate is currently over \$30,000. While a doctor's gross income looks very attractive, start-up and overhead costs such as liability insurance are very high. Other WICHE covered occupations such as occupational therapy, public health, optometry, and even veterinary medicine will have graduates who will not make incomes any greater than many of our college graduates in other fields. Their ability to meet additional payback requirements is questionable when you consider their current debt obligations and income potential. These debts, at least in medicine, may have effects opposite to the goals of Montana in supporting medical education. The larger a student's debt upon completion of his studies, the more likely he is to choose a lucrative career in a medical subspecialty in a metropolitan area rather than a relatively low income career in primary medicine in a rural area. Unfortunately, it is the latter category of physicians that is needed by Montana.
7. The following data may help convey how costly and difficult it will be to administer SB 292. The concept of service/payback appears simple, but the costs associated with the records maintenance, the billing, and the collecting will grow steadily into the year 2000. Consider the following:

As SB 292 is written, medical students will not be required to make a payment until 1999. Assuming we admit 24 students a year into medicine and students are provided 10 years to repay after the repayment starts in 1999, a student enrolling in medicine next year will have until the year 2009 to pay off the debt.

Total possible medical students involved:

24 students a year x 10 years =	240
24 students a year in repayment x 10 years =	<u>240</u>
<b>TOTAL MEDICAL STUDENTS</b>	<b><u>480</u></b>

The medical school cycle is as follows:

Medical School	4 Years	1990-1993
Residency Requirement	3 Years	1993-1996
Grace Period	<u>3 Years</u>	1996-1999
Total	10 Years	
Add: Repayment Period	<u>10 Years</u>	1999-2009
<b>Administration Period</b>	<b>20 Years</b>	

Using a similar methodology for the other fields, the total number of potential student records that must be maintained is as follows:

Medicine	24 for 20 Years	480
Osteopathic Medicine	2 for 18 Years	36
Dentistry	4 for 17 Years	68
Veterinary Medicine	10 for 17 Years	170
Optometry	3 for 17 Years	51
Occupational Therapy	1 for 16 Years	16
Public Health	1 for 16 Years	16
Podiatry	1 for 17 Years	<u>17</u>
<b>TOTAL STUDENTS/YEARS</b>		<b><u>858</u></b>

It is easy to see why the Regents are concerned with the potential administration burden imposed by SB 292. An up-front approach would save the state more money and avoid the bureaucracy of the record keeping required under SB 292.

SENATE EDUCATION  
EXHIBIT NO. 2  
DATE 2-13-89  
BILL NO. SB 292

Mr. Chairman and Members of the committee;  
for the record my name is Tammy Towers

I am a senior at Montana State University and am majoring in microbiology. I am writing to state my opinion about the proposed senate bill 292 which I am opposed to. I am from Bozeman and used to attend Colorado State University. I transferred from Colorado State for two reasons. First, I really missed Montana and its friendly atmosphere. I had lived in a lot of places and finally came to realize that there is really no better place to live than Montana. Secondly, because of the reputable undergraduate programs. I knew Montana State could give me a more personalized and quality education.

If this bill passes I will be devastated. (If I had stayed in Colorado I would be a resident by now and would be attending the University of Colorado medical school.) In other words I am in a financial crisis. I can not afford to go to medical school without the help of the WAMI program because I am already so far in debt now. I have committed myself to Montana and thus the WAMI program is the only way I can become a doctor.

I hope this legislature is responsible enough not to jeopardize the future medical welfare of its constituents by discouraging Montanans from studying medicine. This bill would undeniably be doing just that. Please look to the long term future of Montana and its health rather than questioning the fiscal legitimacy of the WAMI program.

SB 292  
2/13/89

February 13, 1989

Dear Mr. Chairman and Committe Members,

For the record, my name is Kathleen Murrell. I am a Junior in Bio-Medicine at Montana State University. I oppose Senate Bill No. 292.

I believe this bill will be a big mistake. The administrative costs involved with this bill will be too great for any benefit to come from this bill. Enforcement of this bill will be another great inconvenience.

As a student, I am concerned because medical school is an important step in my life. I want to make sure I can attend medical school, and since it will be such a large monetary committment, I want the best opportunity available to me. If this bill would have been in effect three years ago when I was choosing universities, I would have chosen to go to the University of Washington for my undergraduate work. I could then become a resident of the state of Washington and could pay in-state tuition for their medical school. This choice of schooling with the WAMI program in its present form would have been too expensive, but if Senate Bill No. 292 takes effect, going out of state would be a much wiser choice. I know that I am not the only student who thinks this way. If your goal is to bring doctors to Montana, you have not acheived it with this bill. You will even drive undergraduates away.

I do not believe that Senate Bill No. 292 is the answer to the problem of funding medical students.

Sincerely,

*Kathleen Murrell*

Kathleen Murrell

SB 292  
2/13/89

February 13, 1989

Mr. Chairman and Members of the Committee,

For the record, let it be known that my name is Heidi Hauge and I am a senior in Biomedical Science at Montana State University. I have just completed the application and interview process for medical school and have received offers of acceptance from a number of schools, but have chosen to accept an offer from the University of Washington to participate in the WAMI program. I have chosen this program for a number of reasons.

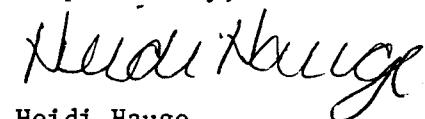
First, through this program I would spend a portion of my medical education in Montana which would enable me to train on Montana's patient population. I feel that this is especially important because I plan to return to Montana as a practicing physician.

Another reason that I have chosen this program was because of its affordability. If I were to accept an offer from one of the other medical schools that I had the opportunity to attend, the cost would be about four times as great as the cost of the WAMI program. I believe that the high debt that I would accumulate at the end of my medical training would force me to choose a speciality that would enable me to pay back this debt. Considering the needs of Montana require primary care physicians, this could prevent my returning to Montana for financial reasons. The passing of Senate Bill 292 would put me in a similar financial situation.

The WAMI program is an excellent program. Acceptance is competitive and the best Montana applicants receive offers to participate in this program. This results in excellent physicians returning to Montana. If this bill is passed, I would bet that Montana's best students would leave the state to establish residency in a state that does have a medical school again reducing chances that he or she will practice medicine in Montana. Ultimately this could result in a decrease in the quality of physicians in Montana.

I hope that you will consider the points made by myself and the other students and others who have expressed their concerns today when voting on this bill. Thank you for your time.

Respectfully,

  
Heidi Hauge

Heidi Hauge

COMMITTEE ON Education (1:00 MWI)

## VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Mark Taylor	Montana Association of School Psychologists	SB 378	X	
Connie Buehl	YOUTH SERVICES CENTER / SELF	SB 378	X	
Kathy White	DAVE	SB 378	X	
Karen Yousu	DAVE, MMI	SB 378	X	
Donald Loge	Montana Society of Internal Medicine	SB 292		X
Nelen Volden	Montana PTA	SB 378	X	
Barbara Scovissin	Mt LIB ASSOC.			
Brian Harlin	ASMSU	SB 292		X
Bill Lengier	Mountain View School	SB 360	X	
Judith H. Carlson	NASW	SB 378	X	
MSDars	LWVMT			
(Joy McKesson)	M. Committee for Prevention of Child Abuse	SB 378		
Phil Campbell	M E A	SB 378	X	
Ph. Brooks	Helena School Bd	SB 378	X	
Claudette Morton	Board of Public Ed	SB 104	X	
" "	" " " "	SB 198		X
" "	" " " "	SB 378	X	
Wendy Kellby	Mt Family Coalition	SB 378		X
Jack Cox	OP I	SB 378	X	
Mrs. Mary E. Bouck	myself & other Parents	SB 378		✓
Eileen Morgan	Montana Association of Birthright WAMI - 1st year medical Program Student - ms u.	SB 378	X	
Reca (Tisa) Stevenson	Sequoia Home Visits GMT	SB 198 SB 292		X
Chris Dewey	Sequoia Home Visits GMT	SB 198 SB 292		
CHIP Erdmann	Local Control	SB 378		X
Deborah Gurney	Montana State Univ. Border Bill 292	SB 292		X

DATE 2/13/89

2 of 2

COMMITTEE ON

Education

## VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Heidi Hauge	Montana State Univ	SB 297		✓
Helen Guza	MSU	SB 292		✓
Alan J. Kelley	Montana State U	SB 292		✓
Joanne A. Hauge	"	SB 292		✓
Bruce W. Boerer	BSBA	SB 378		✓
Bruce W. Boerer	MSBA	SB 158		✓
STEPHEN J. GUGGENHEIM	WAMU	SB 292		✓
PICK ARCHULETA	ASMSU	SB 292		✓
Stan Farmer	ASMSU	SB 292		✓
Tom Ahrens	Mt Hospital Assoc	SB 292		✓
John McWhorter	M + Med Assoc	SB 292		✓
Phil Campbell	MEA	SB 360		✓
"	"	SB 198		✓
Joel Nibb	Board of Regents	CB 202		✓
Jim Rogers	Montana State U.	SB 192		✓
Margo Lober	WAMU	SB 292		✓