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Discipline of Elementary and Secondary Education Students in the State of Georgia

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Research Guides

Discipline of Elementary and Secondary Education Students in the State of Georgia

Guide Information

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Overview

This project focuses on the punishment of elementary and secondary education students in the state of Georgia.

Article Limitations

This article does not apply to any rights provided to students with Individualized Education Programs pursuant to the federal Individuals with Disabilities Education Act, Section 504 of the federal Rehabilitation Act of 1973, or the federal Americans with Disabilities Act.

This article does not apply education rules passed by the State Board of Education. This article is limited to the Official Code of Georgia as well as cases which interpret the code and other scholarly articles that analyze the code in use. The article also does not address United States Code.

About the Author

Chris Calhoun is a student at Georgia State University School of Law and will graduate Spring of 2007. His undergraduate degree is a BA in History and Economics from Georgia Southern University. Chris is currently employed by the DeKalb County School System as a teacher of Georgia History.

Scope

This article should be of assistance to anyone interested in the legal aspect of punishing students in elementary and secondary school systems. The article can be used as a foundation to begin research by attorneys, administrators, teachers or even students.

The article should not be construed as providing legal advice. If you have a legal problem you should consult with a practicing attorney.

Disclaimer

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Primary Sources

Georgia Statutes

Official Code of Georgia Citation and Link to the full document	Summarization of the Code See the Code for full explanations, exceptions, etc.
O.C.G.A. § 20-2-730	The state has authorized your local board of education to determine whether corporal punishment will be used in your school system.
O.C.G.A. § 20-2-731	Even if your local board of education has authorized use of corporal punishment, the punishment must meet certain standards and criteria such as: a) It must not be excessive or unduly severe; b) Parents must be provided a written explanation of the reasons for the punishment upon request.
O.C.G.A. § 20-2-732	As long as the teacher or principal administering the corporal punishment conforms with the local board of education policies and the standards set forth by the O.C.G.A., the teacher and principal are is exempt from criminal or civil legal action.
O.C.G.A. § 20-2-735	Local school boards must have adopted policies to improve student behavior and discipline that comply with this code section. Some standards include: a) A need for a progressive discipline process; and b) A requirement that all due process procedures required by state and federal law will be followed.
O.C.G.A. § 20-2-736	Every student must be given a copy of the Student Code of Conduct upon enrollment.
O.C.G.A. § 20-2-737	Requires teachers to file a report with the school principal or designee reporting student behavior that interferes with class instruction. The code section also requires action be taken by the principal or designee and if punishment is issued, the teacher must be notified.
O.C.G.A. § 20-2-738	Teachers have authority, consistent with local board policy, to manage his or her classroom including disciplining students. This section also permits a teacher to remove a student from the classroom and describes the procedure for such a removal.
O.C.G.A. § 20-2-740	Requires that each local board of education file an annual report with the Department of Education detailing discipline actions taken within the district the previous school year.
O.C.G.A. § 20-2-750	The “Public School Disciplinary Tribunal Act.”
O.C.G.A. § 20-2-751	Defines the terms expulsion, long and short-term suspension and weapon.
O.C.G.A. § 20-2-751.1	Allows for expulsion of a student who brings a weapon to school.
O.C.G.A. § 20-2-751.2	Students who transfer to a new school may be subjected to punishment which is a carryover from the previous school.

	Administrators must inform all of a student's teachers of any designated felony act committed by a student.
O.C.G.A. § 20-2-751.4	Students found guilty of bullying for the third time in a school year shall be assigned to an alternative school.
O.C.G.A. § 20-2-751.5	Requires that all student codes of conduct shall address assault and battery. This section also regulates distribution of handbooks and codes of conduct within school systems.
O.C.G.A. § 20-2-751.6	Defines "physical violence." Governs punishment of students who commit a violent act against a school employee.
O.C.G.A. § 20-2-752	Permits local boards of education to establish disciplinary hearing officers, panels, or tribunals of school officials to impose suspension or expulsion. The section also establishes rules to govern such officers, panels and tribunals.
O.C.G.A. § 20-2-753	In addition to O.C.G.A. § 20-2-752, this section also governs the use of disciplinary hearing officers, panels, or tribunals.
O.C.G.A. § 20-2-754	Governs hearings conducted under O.C.G.A. §§ 20-2-752 and 753.
O.C.G.A. § 20-2-755	Governs actions that can be taken by hearing officer, panel or tribunal.
O.C.G.A. § 20-2-756	Requires hearing officers, panels, or tribunals to report certain criminal actions to local law enforcement agencies.
O.C.G.A. § 20-2-757	Proceedings and meetings of hearing officers, panels, or tribunals are confidential.
O.C.G.A. § 20-2-758	Sections dealing with hearing officers, panels and tribunals do not prohibit, restrict, or limit any cause of action otherwise provided by law and available to any teacher, school official, employee, or student.
O.C.G.A. § 20-2-759 (This link is not active to the OCGA site as the site is one year behind)	Students in kindergarten through the fifth grade are not subject to disciplinary tribunals but instead the superintendent shall determine disciplinary action outside the school for them.
O.C.G.A. § 20-2-764	Defines "Chronic disciplinary problem student," "expulsion" and "suspension."
O.C.G.A. § 20-2-765	Details steps to be taken by a principal once a child has been identified as a chronic disciplinary problem student.
O.C.G.A. § 20-2-766	Allows the school to request that a parent attend a conference prior to readmitting a child labeled as a chronic disciplinary problem student.
O.C.G.A. § 20-2-766.1	This section permits a local board of education to petition the juvenile court for action against parents who willfully and unreasonably fail to attend conferences scheduled under O.C.G.A. §§ 20-2-765 and 766.

O.C.G.A. § 20-2-767	Defines the terms expulsion and suspension.
O.C.G.A. § 20-2-768	This section allows the local board of education to refuse readmission or enrollment to a student who has committed certain felonies.
O.C.G.A. § 20-2-1160	This section empowers any local board of education to act as a tribunal for conducting a hearing with the power to summon witnesses. This section also details the appeals process to the State Board of Education.

Case Law

Case name and cite	What the case means
Daniels v. Gordon, 503 S.E.2d 72 (1998).	This case defines what corporal punishment is and gives examples of what it is not.
Maddox v. Boutwell, 336 S.E.2d 599 (1985).	Corporal punishment that produces bruising and pain is not necessarily unduly severe.
D.B. v. Clarke County Bd. of Education., 469 S.E.2d 438 (1996).	Permanent expulsion is not a violation of a student's constitutional right to free public education.
Wayne County Bd. of Education v. Tyre, 404 S.E.2d 809 (1991).	Students given short-term suspensions are not necessarily entitled to a disciplinary hearing process.
Lott v. Board of Ed. of Hall County, 139 S.E. 722 (1927)	School boards acting as tribunals is not a violation of the Constitution.
Rabon v. Bryan County Bd. of Education, 326 S.E.2d 577 (1985).	School board decisions are governed by special statutes not the Administrative Procedure Act.
Glynn county Bd. of Education v. Lane, 407 S.E.2d 754 (1991).	Boards of Education can act as legislative body, executive body and judicial body.
Bacon v. Brewer, 395 S.E.2d 383 (1990).	Unless necessary to prevent irreparable injury, courts will not preempt administrative remedies provided by the school system.

Georgia State Constitution

Ga. Const. of 1983, art. VIII, § 1	Paragraph I. Public education; free public education prior to college or post secondary level; support by taxation. The provision of an adequate public education for the citizens shall be a primary obligation of the State of Georgia. Public education for the citizens prior to the college or post secondary level shall be free and shall be provided for by taxation. The expense of other public education shall be provided for in such manner and in such amount as may be provided by law.
Ga. Const. of 1983, art. VIII, § 2	Paragraph I. State Board of Education. (a) There shall be a State Board of Education which shall consist of one member from each congressional district in the state appointed by the Governor and confirmed by the Senate. The Governor shall not be a member of said board. The ten members in office on June 30, 1983, shall serve out the remainder of their respective terms. As each term of office expires, the Governor shall appoint a successor as herein provided. The terms of office of all members appointed after the effective date of this Constitution shall be for seven years. Members shall serve until their successors are appointed and qualified. In the event of a vacancy on the board by death, resignation, removal, or any reason other than expiration of a member's term, the Governor shall fill such vacancy; and the person so appointed shall serve until confirmed by the Senate and, upon confirmation, shall serve for the un-expired term of office.

	(b) The State Board of Education shall have such powers and duties as provided by law. (c) The State Board of Education may accept bequests, donations, grants, and transfers of land, buildings, and other property for the use of the state educational system. (d) The qualifications, compensation, and removal from office of the members of the board of education shall be as provided by law.
Ga. Const. of 1983, art. VIII § 3	Paragraph I. State School Superintendent. There shall be a State School Superintendent, who shall be the executive officer of the State Board of Education, elected at the same time and in the same manner and for the same term as that of the Governor. The State School Superintendent shall have such qualifications and shall be paid such compensation as may be fixed by law. No member of the State Board of Education shall be eligible for election as State School Superintendent during the time for which such member shall have been appointed.
Ga. Const. of 1983, art. VIII, § 5	Paragraph I. School systems continued; consolidation of school systems authorized; new independent school systems prohibited. Authority is granted to county and area boards of education to establish and maintain public schools within their limits. Existing county and independent school systems shall be continued, except that the General Assembly may provide by law for the consolidation of two or more county school systems, independent school systems, portions thereof, or any combination thereof into a single county or area school system under the control and management of a county or area board of education, under such terms and conditions as the General Assembly may prescribe; but no such consolidation shall become effective until approved by a majority of the qualified voters voting thereon in each separate school system proposed to be consolidated. No independent school system shall hereafter be established. Paragraph II. Boards of education. Each school system shall be under the management and control of a board of education, the members of which shall be elected as provided by law. School board members shall reside within the territory embraced by the school system and shall have such compensation and additional qualifications as may be provided by law. Any board of education to which the members are appointed as of December 31, 1992, shall continue as an appointed board of education through December 31, 1993, and the appointed members of such board of education who are in office on December 31, 1992, shall continue in office as members of such appointed board until December 31, 1993, on which date the terms of office of all appointed members shall end. Paragraph III. School superintendents. There shall be a school superintendent of each system appointed by the board of education who shall be the executive officer of the board of education and shall have such qualifications, powers, and duties as provided by general law. Any elected school superintendent in office on January 1, 1993, shall continue to serve out the remainder of his or her respective term of office and shall be replaced by an appointee of the board of education at the expiration of such term.

Administrative Regulations

Administrative regulations are outside the scope of this article, however, a link has been provided to the Georgia State Board of Education web site which reports on State Board Rules and Decisions.

- Georgia State Education Rules

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Secondary Sources

Treatises

James A. Rapp, Education Law (Molly H. Miller et al. eds., Matthew Bender & Company, Inc., 2005).	This is a comprehensive treatise on all of Education Law. Chapter 9 deals with the discipline of students.
Michael J. Dale et al., Representing the Child Client (Robert D. Bae et al. eds., Matthew Bender & Company, Inc., 2005).	This is a comprehensive treatise for the legal practitioner who wishes to represent minors. Chapter 10 covers school discipline.

Journal Articles

Perry A. Zirkel, COUNTERPOINT: Introduction: Is It Time for Barring, Not Baring or Sparing, the Rod?, 31 J.L. &	Argues against the use of corporal punishment and in favor of the United States ratifying the United Nations treaty titled “Convention of the Rights of the Child.”

Educ. 71, 71 – 73 (2002).

American Law Reports

R. D. Hursh, Annotation, Teacher's Civil Liability for Administering Corporal Punishment to Pupil, 43 A.L.R.2d 469 (1955).	This report explores to what extent a teacher can administer corporal punishment without exposing themselves to civil liability.
Allan L. Schwartz, Administration of Corporal Punishment in Public School System as Cruel and Unusual Punishment Under Eighth Amendment, 25 A.L.R.Fed. 431 (2005).	This report gives detailed analysis to what the courts may consider to be a violation of the Eighth Amendment when administering corporal punishment.
Daniel E. Feld, Right to Discipline Pupil for Conduct Away from School Grounds or not Immediately Connected with School Activities, 53 A.L.R.3d 1124 (2005).	This report analyzes school authority over students after they leave school premises.

Encyclopedias

78A C.J.S. Schools and School Districts § 797 (2005).	This article details circumstances under which corporal punishment would be acceptable.
78A C.J.S. Schools and School Districts § 796 (2005).	This article examines the ability of teachers to use reasonable means to punish disobedient students.
68 Am. Jur. 2d Schools § 291 (2005).	This article examines the ability of schools to punish students for actions which occurred outside the actual school or school grounds.
68 Am. Jur. 2d Schools § 290 (2005).	Excellent article that explores where teachers receive the legal ability to punish students.

Law Review Articles

Jerry R. Parkinson, Federal Court Treatment of Corporal Punishment in Public Schools: Jurisprudence that is Literally Shocking to the Conscience, 39 S.D. L. Rev., 276, 276 – 311 (1994).	This article explores student's substantive due process rights to be free from excessive corporal punishment.
Alicia C. Insley, Suspending and Expelling Children from Educational Opportunity: Time to Reevaluate Zero Tolerance Policies, 50 Am. U. L. Rev., 1039, 1039 – 1074 (2001).	This article does not pretend to be balanced in its approach to suspension and expulsion of students. The article and author argue that suspension and expulsion do not create safer schools and that school violence is indicative of larger issues in society. The article is useful only to the extent that it will provide the reader a glimpse of ultra-liberal policy created by persons who do not work within school systems.
Aaron D. Rachelson, Expelling Students Who Claim to be Disabled: Escaping the Individuals With Disabilities Education Act's "Stay-Put" Provision, 2 Mich. L. & Pol'y Rev. 127, 127 – 158 (1997).	This article details the difficulty that the education system can face when confronted with warrant-less claims of disability and how the Individuals With Disabilities Education Act can be and is abused.
Brent E. Troyan, The Silent Treatment: Perpetual In-School Suspension and the Education Rights of Students, 81 Tex. L. Rev. 1637, 1637 – 1670 (2003).	This article explores the concept of in-school suspension, why schools continue to use in-school suspension and why the courts uphold the punishment.

Books

Harben Sam & Phil Hartley, A Guide to School Law in Georgia (Georgia School Boards Association, 2000). Call Number: KFG 390 .H37 2000	This book provides a very general overview of all Georgia law relating to education and the educational system. This book is not meant to provide a final answer to any legal question but it is an excellent starting point for both non-attorneys and attorneys.
Georgia School Law Decisions (LRP Publications, 2006)	Published bi-monthly, this service updates the reader on all federal and state court decisions, Georgia Professional

Call Number: KFG 390 .G47 2006	Standards Commission decisions and rulings, Georgia State Board decisions and Attorney General findings relating to education in Georgia. This looseleaf service should really be considered as required for anyone practicing in the field of education law.

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Computerized Research

Computerized Research

- WestLaw - Westlaw is not a free research service.
- Lexisnexis - Lexisnexis is not a free research service.
- Loislaw - This is a fee-based research service, but there is a free trial period.
- Lexisone - Site which offers limited free research.
- Casemaker - This research service is available for free to members of the Georgia Bar.
- Zimmerman's Research Guide - A web-based resource

Search Terms

- Discipline
- School Discipline
- Student
- Student Discipline

Interest Groups

- Georgia State Board of Education
- Georgia State School Superintendent
- Georgia State Education Rules
- Professional Association of Georgia Educators
- Georgia Association of Educators
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