

SENATOR KEN ARMBRISTER
Chairman
SENATOR JOHN WHITMIRE
Vice Chair
SENATOR TEEL BIVINS



SENATOR MIKE MONCRIEF
SENATOR STEVE OGDEN
SENATOR TODD STAPLES
SENATOR ROYCE WEST

The Texas Senate
Committee on Criminal Justice

RECEIVED
OCT 30 2001
OPINION COMMITTEE

RQ-0459-JC

October 23, 2001

Ms. Susan Gusky
Division Chief, Opinions Committee
Office of the Attorney General
P.O. Box 12548
Austin, TX 78711-2548

FILE # ML-422166-01
I.D. # 422166

Dear Ms. Gusky,

I would appreciate an Attorney General's opinion regarding the forwarded information from Senator Chris Harris' office.

Thank you in advance for the time and consideration for this request. If you have any questions, please call Steve Foster in my committee office at (512) 463-0345 or Peggy Dodson in Senator Harris' office at (512) 463-0110 or (817) 861-9333.

Sincerely,

A handwritten signature in black ink, appearing to read "Ken Armbrister", written over the word "Sincerely,".

Kenneth Armbrister

MAY 10 2001



CHRIS HARRIS
District 10

**The Senate of
The State of Texas
Austin 78711**

1309 W. ABRAM
SUITE 201
ARLINGTON, TEXAS 76013
(817) 861-9333
(817) 261-5396 METRO

CAPITOL STATION
P.O. BOX 12068
AUSTIN, TEXAS 78711
(512) 463-0110

TDD 1-800-735-2989

May 14, 2001

The Honorable Kenneth Armbrister
Texas Senate
P. O. Box 12068
Austin, TX 78711-2068

Dear Senator Armbrister,

I am writing to you on behalf of Frank Hill, with the law firm of Hill Gilstrap, who contacted my office requesting an Attorney General's opinion. Enclosed are copies of his correspondence.

Thank you for your consideration of Mr. Hill's request. If you have questions, please call Peggy Dodson, Administrative Assistant at (512) 463-0110 or (817) 861-9333.

Sincerely,

A handwritten signature in cursive script that reads "Chris".

Chris Harris



HILL GILSTRAP
A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW

1400 WEST ABRAM STREET
ARLINGTON, TEXAS 76013
TEL 817-261-2222
FAX 817-861-4685

RECEIVED
MAY 07 2001
SENATOR HARRIS
DISTRICT OFFICE

CHICAGO
SUITE 1050
303 WEST MADISON
CHICAGO, ILLINOIS 60606
312-853-2920

LITTLE ROCK
SUITE 105
2200 BROOKWOOD DRIVE
LITTLE ROCK, ARKANSAS 72202
501-603-9000

FRANK HILL

May 1, 2001

~~Senator Chris Harris
P.O. Box 12068
Austin, Texas 78711~~

Dear Senator Harris:

We represent the Arlington Independent School District.

Our client has asked your assistance in obtaining an Attorney General's opinion. We enclose a copy of a letter which Dr. Bernd sent to Attorney General John Cornyn in which he asked for such an opinion; however, as we understand it, the Attorney General's office cannot issue an opinion at the request of the superintendent.

Thus, it is our hope that you can and will assist by requesting the Attorney General's opinion "regarding the legality with respect to state law of the district's local policy on the subjects of corporal punishment and physical restraint under the heading of student discipline (FO[Local]-X, pg. 2)", a copy of which policy we enclose as well.

Please let me know if you need other information and if you can be of assistance in this regard.

As always, the school district sincerely appreciates your efforts.

Sincerely,


Frank Hill

FH:jn

Enclosures

cc: Ms. Terri Gaston

March 29, 2001

The Honorable John Cornyn
Attorney General, State of Texas
209 West 14th Street
Austin, Texas 78711-2548

Dear Honorable Attorney General Cornyn:

My office has received a request from a community member requesting a review of the attached Board Policy on corporal punishment and physical restraint. The question asked is whether a policy that allows corporal punishment would be legal under the laws of Texas.

I would appreciate an opinion from your office on this matter. Please contact my office, 817-459-7344, or Dr. Sandra Houston, staff attorney, 817-459-7398, if you have questions.

Sincerely,

Dr. Mac Bernd
Superintendent

STUDENT DISCIPLINE

FO
(LOCAL)

STUDENT CODE OF CONDUCT

The Student Code of Conduct containing information regarding student discipline shall be distributed at the beginning of the school year to students and parents, teachers, and administrators. The Student Code of Conduct shall be provided also to newly hired professional employees, newly enrolled students, and any other person on request.

REVISIONS

Revisions to the Student Code of Conduct during the year shall be communicated promptly to students and parents, teachers, and administrators and shall also be posted on campus.

'PARENTS' DEFINED

Throughout the Student Code of Conduct and discipline policies, the term "parents" includes the single parent, legal guardian, or person having lawful control of the child.

DETENTION

For minor infractions of the Student Code of Conduct or campus or classroom rules, teachers or administrators may detain students after school hours on one or more days, as provided by the discipline management program and/or Student Code of Conduct. Before being assigned to detention, a student shall be informed of the behavior that allegedly constitutes the violation, and shall be given an opportunity to explain his or her version of the incident. The period of time for which a student is assigned to detention shall be used for educational purposes.

NOTICE TO PARENTS

When detention is used, notice shall first be given to the student's parent to inform him or her of the reason for the detention and permit arrangements for the necessary transportation of the student. Except in the case of a student who is 18 years of age or older, the detention shall not begin until the parents have been notified. The student's parents, if the student is a minor, may be required to provide transportation when the student has been assigned to detention.

CORPORAL PUNISHMENT

The Board prohibits the use of corporal punishment in the District. Students shall not be spanked, paddled, or otherwise physically disciplined for violations of the Student Code of Conduct.

PHYSICAL RESTRAINT

Any District employee may, within the scope of the employee's duties, use and apply physical restraint to a student if the employee reasonably believes restraint is necessary in order to:

1. Protect a person, including the person using physical restraint, from physical injury.
2. Obtain possession of a weapon or other dangerous object.
3. Protect property from serious damage.

STUDENT DISCIPLINE

**FO
(LOCAL)**

4. Remove a student refusing a lawful command of a school employee from a specific location, including a classroom or other school property, in order to restore order or to impose disciplinary measures.

5. Restrain an irrational student.

**EXTRACURRICULAR
ACTIVITIES:
STANDARDS OF
BEHAVIOR**

PURPOSE

The purpose of this policy is to provide a clear indication to all students, parents, and the community that the District will not tolerate or condone conduct as described below by its students, especially those students who have been afforded the privilege of representing the District in extracurricular activities, clubs, and organizations.

PHILOSOPHY

The District recognizes the concerns of parents and community over the alarming increase among students, not only state and nationwide, but locally, in violation of laws related to alcohol, dangerous drugs, marijuana and/or controlled substances, volatile chemicals, and abusable glue or aerosol paint. As a key component of the broader community, the District will facilitate efforts with the community and between community entities to address student violations of law and the Student Code of Conduct related to alcohol, dangerous drugs, marijuana and/or controlled substances, volatile chemicals, and abusable glue or aerosol paint, as they are defined in the Student Code of Conduct, regardless of whether such violations occur at school or school related events and regardless of whether such violations occur during the school year.

EXPECTATION

All District students are expected to abide by state and federal law, District policy, and the Student Code of Conduct. Students who participate in that District's extracurricular activities or who are members and/or participate in any District-sponsored clubs or organizations that represent the District, have a special obligation to conduct themselves at all times in a manner that will not bring discredit to the District, their school, and student body. Participation in extracurricular activities or District-sponsored clubs and organizations is a privilege and no student has any right to such participation or membership.

**PRIVILEGES
SUSPENDED: DRUGS /
ALCOHOL**

Any student who represents the District by participating in extracurricular activities or is a member or participant in any District-sponsored clubs or organizations will be suspended from membership and/or any and all participation if the student is found to have engaged in conduct that would constitute a violation of any law related to alcohol, dangerous drugs, marijuana and/or controlled substances, volatile chemicals, and abusable glue or aerosol paint, as such substance is defined in the Student Code of Conduct, regardless of whether or not such conduct occurs on school property or at school-sponsored or school-related events and

04 30 2001 10:42 FAX ADMIN 00170014000 10:07:10 110

WILLIAM M. (BILL) EASTLAND

318 W. MAIN STREET, SUITE 101
ARLINGTON, TX 76010
817/794-0735 (VOICE & FAX)
FAX 817/460-6377

March 29, 2001

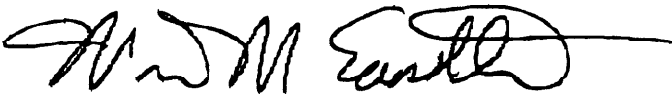
Dr. Mac Bernd
Superintendent of Schools
Arlington Independent School District
1203 West Pioneer Parkway
Arlington, TX 76013

Dear Dr. Bernd,

This letter is a formal request as a citizen of the AISD that the school district request an opinion from the Attorney General of Texas regarding the legality with respect to state law of the district's local policy on the subjects of Corporal Punishment and Physical Restraint under the heading of Student Discipline (FO (LOCAL)-X, page 2).

Thank you for your consideration of this matter.

Cordially,



Wm. M. Eastland