

Can't Touch This—How Statutory Immunity Protection Passed in 2003 Shields Educators Who Use Force Against Students

Dr. Melissa Kates
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2003 Tort Reform in Texas

Passage of HB 4 was the most sweeping tort reform to date



Under House Bill 4... existing immunity is extended and improved...for Texas educators

Author of House Bill 4:
Representative Joe Nixon

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Sec. 22.0512. IMMUNITY FROM DISCIPLINARY PROCEEDINGS FOR PROFESSIONAL EMPLOYEES.

(a) A professional employee of a school district may not be subject to disciplinary proceedings for the employee's use of physical force against a student to the extent justified under Section 9.62, Penal Code.

(b) In this section, "disciplinary proceeding" means:

(1) an action brought by the school district employing a professional employee of a school district to discharge or suspend the employee or terminate or not renew the employee's term contract; or

(2) an action brought by the State Board for Educator Certification to enforce the educator's code of ethics adopted under Section 21.041(b)(8).

(c) This section does not prohibit a school district from:

(1) enforcing a policy relating to corporal punishment; or

(2) notwithstanding Subsection (a), bringing a disciplinary proceeding against a professional employee of the district who violates the district policy relating to corporal punishment.

Added by Acts 2003, 78th Leg., ch. 1197, Sec. 1, eff. Sept. 1, 2003.

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Corporal Punishment vs. Use of Force under §22.0512

Corporal Punishment = punish a student *after the fact* as a result of the behavior

§22.0512 Use of Force = maintain control/discipline in educational setting *at the time* of behavior

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§22.0512: Immunity from Disciplinary Proceedings

An educator **cannot be subject to disciplinary proceedings for the use of physical force against a student.....**

if “**reasonably believes** force is **necessary**: (1) to enforce compliance with a proper command issued for the purpose of **controlling, training, or educating the child...**the force or physical contact **must be reasonable** and **not disproportionate** to the activity or the offense”

(Williams v. Spring ISD)

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2020 Dissertation Study: Commissioner Decisions Interpreting §22.0512		19 Commissioner Decisions between Sept 2003 - 2019*
13 classroom teachers 3 educational aides 1 librarian 1 assistant principal 1 principal	9 at the secondary level 6 at the elementary level 4 unknown	10 males 9 females
	*Stoneham v. Crowley ISD; Long v. Fort Worth ISD since September 2019	

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