

OPINION NO. 68-161

Syllabus:

A driver of a school bus may not inflict corporal punishment upon a student passenger being transported to and from school.

To: John M. Oswald, Warren County Pros. Atty., Lebanon, Ohio
By: William B. Saxbe, Attorney General, December 2, 1968

I am in receipt of your request for my opinion which asks whether a driver of a school bus may inflict corporal punishment upon a student who is a passenger on the bus and being transported to or from school.

The Ohio General Assembly in Section 3313.20, Revised Code, empowers a board of education to make such rules and regulations as are necessary for its government and the government of its employees and the pupils of the schools. This statute, together with the general statutes concerning the powers of boards of education, confers upon such boards plenary authority and responsibility for the conduct, control, regulation and supervision of the pupils. 48 O. Jur. 2d, Section 84, page 787. Therefore, it might appear that a school board under the wide discretion granted by the legislature might authorize by rule or regulation, a school bus driver to administer corporal punishment on unruly student passengers.

However, the board's discretion to regulate and supervise the conduct of pupils is subject to statutory limitation. Section 3319.41, Revised Code, limits the individuals authorized to administer corporal punishment.

This statute reads as follows:

"A person employed or engaged as a teacher, principal, or administrator in a school, whether public or private, may inflict or cause to be inflicted, reasonable corporal punishment upon a pupil attending such school whenever such punishment is reasonably necessary in order to preserve discipline while such pupil is subject to school authority. Such person may also, within the scope of his employment, use and apply such amount of force as is reasonable and necessary to quell a disturbance threatening physical injury to others, to obtain possession of weapons or other dangerous objects upon the person or within the control of the pupil, for the purpose of self-defense, or for the protection of persons or property."

Thus, while Section 3313.20, *supra*, grants local school boards the right to provide by regulation for the corporal punishment of pupils, the legislature has provided by statute who is authorized to inflict or cause such punishment to be inflicted. Only a "teacher, principal or administrator" has the statutory

right under Section 3319.41, supra, to administer corporal punishment upon a pupil when such punishment is deemed reasonably necessary.

Therefore, I can only conclude that since the legislature has not seen fit to include school bus drivers as among the school officials authorized by statute to impose corporal punishment or to cause its imposition, a driver of a school bus is prevented by statutory classification from inflicting corporal punishment upon a student passenger being transported to and from school.

Accordingly, it is my opinion and you are hereby advised that a driver of a school bus may not inflict corporal punishment upon a student passenger being transported to and from school.