

## 2018 Legislative Recap: Corporal Punishment in Tennessee

Lauren Spires, Legislative Research Analyst  
[Lauren.Spires@cot.tn.gov](mailto:Lauren.Spires@cot.tn.gov)  
Office of Research and Education Accountability

During the 110th General Assembly, members passed two pieces of legislation concerning corporal punishment for students with disabilities following the release of the Comptroller’s March 2018 report *Corporal Punishment in Tennessee*. The report includes an examination of Tennessee’s laws and local school board policies, and an analysis of the available data on the use of corporal punishment for students with and without disabilities. This recap describes the new public chapters, provides an overview of the report’s original conclusions, and includes statistics updated with the most recent available data.

**Corporal Punishment**  
*Paddling, spanking, or other forms of physical punishment imposed on a student.*

**Students with Disabilities**  
*Students receiving services under the Individuals with Disabilities Education Act (IDEA) and/or Section 504 of the federal Rehabilitation Act of 1973 (Section 504).*

*The Office of Research and Education Accountability’s (OREA’s) full report on corporal punishment explores in greater depth the use of corporal punishment in Tennessee schools, including a detailed analysis of survey responses from principals and directors of schools, and an explanation of the federal disability laws (IDEA and Section 504). Appendices include a list of Tennessee school districts allowing the use of corporal punishment per board policy, a list of schools that reported using corporal punishment, and the corresponding rates of corporal punishment use for students with and without disabilities.*

## Public Chapter 777 (Senate Bill 1947 – Sen. Rusty Crowe | House Bill 2331 – Rep. Jason Powell)

Public Chapter 777 **requires districts to report corporal punishment data to the Tennessee Department of Education (TDOE) annually**, starting with the 2018-19 school year. Schools will be required to provide greater detail about their use of corporal punishment than they report to the U.S. Department of Education, Office for Civil Rights (OCR). TDOE has not collected corporal punishment data in the past. Instead, schools and districts reported their data on corporal punishment use to OCR biennially (i.e., every two years).

The data reported to OCR includes students' race, gender, and disability status, indicating if a student receives services under one of two federal disability programs: the Individuals with Disabilities Education Act (IDEA) or Section 504 of the Rehabilitation Act of 1973 (Section 504). The disability categories under IDEA and Section 504 show there is a spectrum of disabilities for which students may receive services in Tennessee schools, ranging from temporary medical issues to severe cognitive disabilities. When schools report corporal punishment data to OCR, students with disabilities are identified as receiving services under IDEA or Section 504; no further details regarding the type or severity of disability are provided. The lack of specificity prevented OREA from determining which types of students with disabilities receive corporal punishment.

### Public Chapter 777

*Requires districts to report their schools' use of corporal punishment to the Tennessee Department of Education more frequently and in greater detail than what they currently report to the U.S. Department of Education.*

Beginning in the 2018-19 school year, districts will be required to report data on their schools' use of corporal punishment to TDOE on an annual basis. Districts must report each instance of corporal punishment use, the reason for each instance of corporal punishment, whether the student receiving corporal punishment has disabilities, and if so, the student's type of disability. **This additional information will allow education officials and others to compare corporal punishment rates for students by type and severity of disability, as well as the behaviors that lead to its use.**

In sum, **PC 777 addresses the following limitations** and discrepancies found by OREA in the data schools submit to OCR:

- **Timeliness:** The most current data available on corporal punishment use is from the 2015-16 school year and was released by OCR in April 2018. Requiring districts to report corporal punishment data on an annual basis directly to TDOE will reduce the multiyear lag in data availability.
- **Reporting errors:** OREA's research identified several errors in the data schools reported to OCR. It is anticipated that having TDOE collect and maintain corporal punishment data will make it easier to identify and correct reporting errors.
- **Tennessee-specific disability categories:** There are two disability categories (Functional Delay and Intellectually Gifted) that are recognized in Tennessee beyond the 13 categories recognized by the federal IDEA law. These two disability categories have a combined five-year average enrollment of about 21,600 students. Any student identified solely under one of these two disability categories in Tennessee would not be counted as a student with disabilities when schools report to OCR, if schools

abide by OCR’s instruction to report using the 13 federally-recognized disability categories. (It is unclear if schools follow this instruction.) This limitation will be addressed when schools report their data to TDOE.

- **Detailed information:** Schools will be required to provide more detailed information concerning corporal punishment to TDOE than they currently report to OCR. This additional information will make it possible to determine which types of students with disabilities (i.e., a student with a food allergy compared to a student with an intellectual disability) are receiving corporal punishment as well as the behaviors that lead to its use.

Schools will continue to report corporal punishment data biennially to OCR, in addition to the annual reporting to TDOE beginning in the 2018-19 school year.

Exhibit 1 outlines the similarities and differences among corporal punishment data collected by OCR and TDOE.

**Exhibit 1: Corporal punishment data collection by OCR and TDOE**

	Office for Civil Rights, U.S. Department of Education	Tennessee Department of Education
<b>Collection dates</b>	Biennially (i.e., 2009-10, 2011-12, 2013-14, 2015-16, etc.)	Annually, beginning with the 2018-19 school year
<b>School-level data</b>	Yes	Yes
<b>Number of students receiving corporal punishment in the school year</b>	Yes	Yes
<b>Number of instances corporal punishment was used in the school year</b>	Yes, starting with the 2015-16 data collection*	Yes
<b>The reason corporal punishment was used</b>	No	Yes
<b>A student’s disability status</b>	Yes; data shows if a student is served under IDEA or Section 504	Yes; data will show if a student is served under IDEA or Section 504
<b>Information regarding the student’s type of disability</b>	No	Yes
<b>Public reporting</b>	Data is available for review and analysis on OCR’s website	TDOE will report on its website the number of instances corporal punishment is used per district, and the number of instances involving a student with disabilities

Note: \*OREA’s review of the 2015-16 data found that over half of schools reported a greater number of students receiving corporal punishment than the number of instances corporal punishment was used for that school year. It is unclear if this is a reporting error or if districts are reporting different data based on their interpretations of the reporting instructions.

Source: U.S. Department of Education Office for Civil Rights; Tennessee Department of Education; PC 777 (2018).

## Public Chapter 900 (Senate Bill 2330 – Sen. Sara Kyle | House Bill 2330 – Rep. Jason Powell)

Public Chapter 900 **prohibits the use of corporal punishment for a student with disabilities, unless the student’s parent provides written consent.** The written consent provided by the parent must specify the type of corporal punishment that may be used and the circumstances in which the use of corporal punishment is permitted. The school’s principal is required to notify the parent any time corporal punishment is used for a student with disabilities. Parents may withdraw the permission to use corporal punishment on their child at any time by submitting written notice to the school. PC 900 applies to schools in districts that have a board policy allowing the use of corporal punishment.

### Public Chapter 900

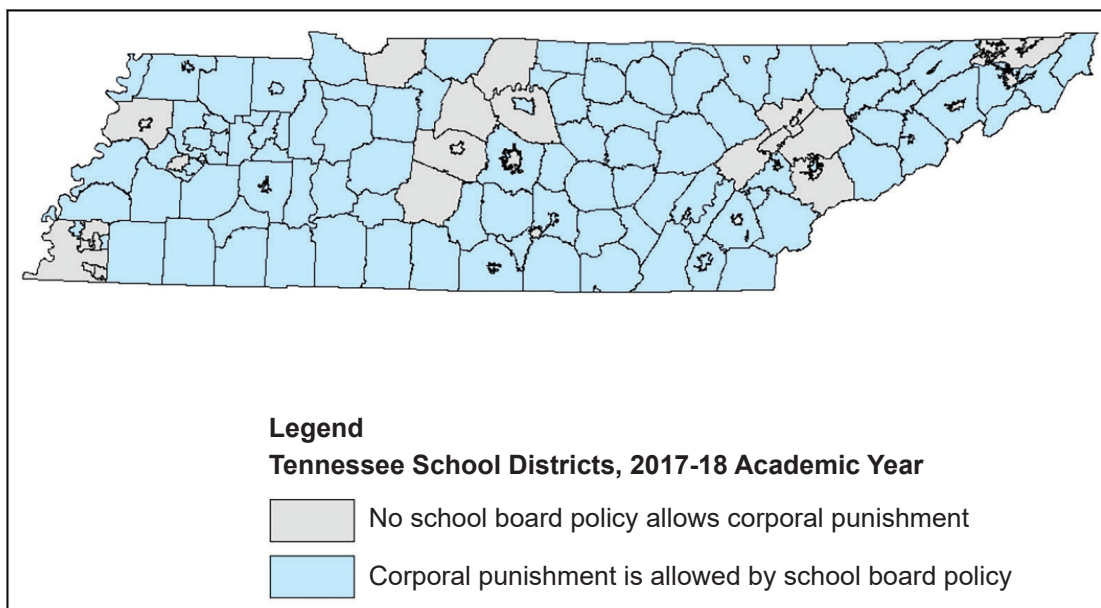
*Prohibits the use of corporal punishment for a student with disabilities, unless the student’s parent provides written consent.*

State law allows corporal punishment to be used in Tennessee public schools and directs local boards of education to adopt policies governing its use if allowed within their school district. Prior to the passage of PC 900, state law did not address the use of corporal punishment for students with disabilities.

### Local school board policies

In August 2017, OREA conducted a comprehensive review of the corporal punishment policies of all 148<sup>1</sup> school districts in the state and found that 109 have a board policy allowing corporal punishment. The other 39 districts do not allow corporal punishment, either explicitly per board policy or through lack of a policy allowing its use. (See Exhibit 2.)

### Exhibit 2: Where corporal punishment is allowed and not allowed per school board policy, 2017-18 school year



Source: OREA review of school board policies, August 2017.

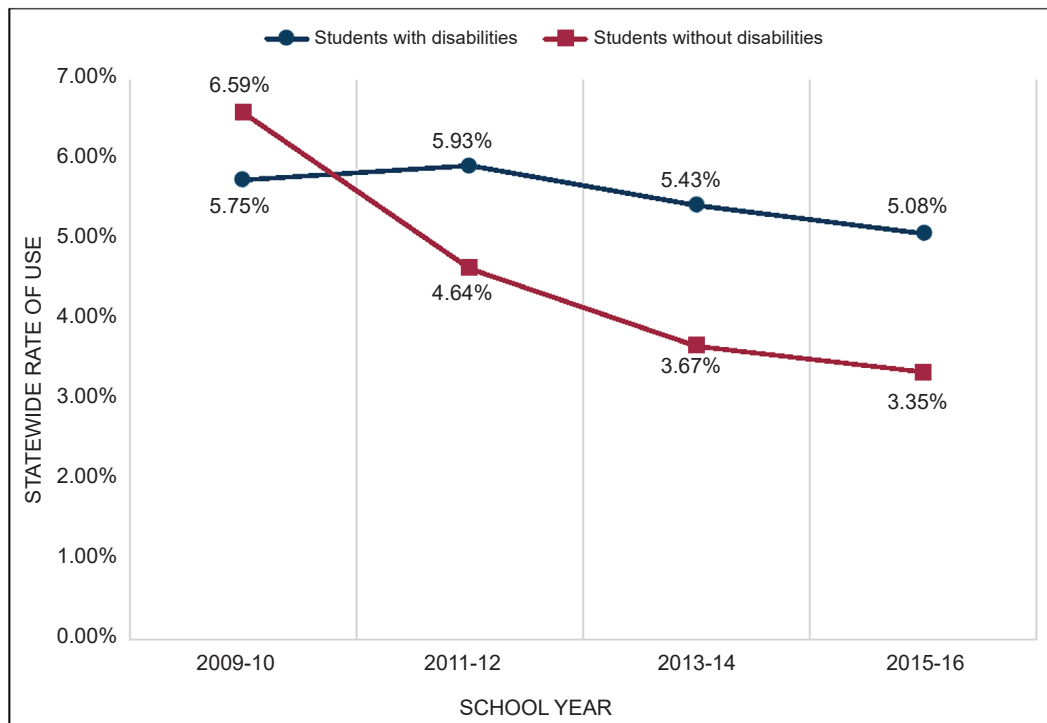
<sup>1</sup> This figure includes all 141 county, city, and special school districts, four state special schools (Alvin C. York Institute, Tennessee School for the Blind, Tennessee School for the Deaf, and West Tennessee School for the Deaf), the Achievement School District (ASD), the State Board of Education (SBE), and the Tennessee Department of Children’s Services (DCS). The four state special schools, ASD, SBE, and DCS are treated as school boards in terms of creating their own policies for the school(s) within their jurisdiction. See Appendix D in the full report for a list of all 148 districts included in the analysis.

State law does not contain guidelines for what components must be included in a school board’s policy on corporal punishment. **Most school board policies on corporal punishment contain similar language and leave discretion to whomever administers corporal punishment within the school.** Among other components, most policies require a witness to be present, and state that corporal punishment is to be administered only after other less stringent measures have failed or when the conduct of the student is of such nature that corporal punishment is the only reasonable form of punishment under the circumstances. **Most board policies do not address parental consent:** of 109 board policies that allow corporal punishment, eight policies require that parents be contacted prior to using corporal punishment, and 31 policies specify that parents may opt out of corporal punishment for their child. **One school board’s policy addresses the use of corporal punishment specifically for students with disabilities,** however, prohibiting its use if the student’s misbehavior is a manifestation of his or her disability (i.e., the student’s behavior is caused by his or her disability).

### Data trends

An analysis of the available data on corporal punishment use in Tennessee public schools found that **students with disabilities received corporal punishment at a higher statewide rate than their non-disabled peers** for three of the four most recent reporting years. (See Exhibit 3.)

**Exhibit 3: Statewide rates of corporal punishment use for students with and without disabilities, 2009-10, 2011-12, 2013-14, and 2015-16 school years**

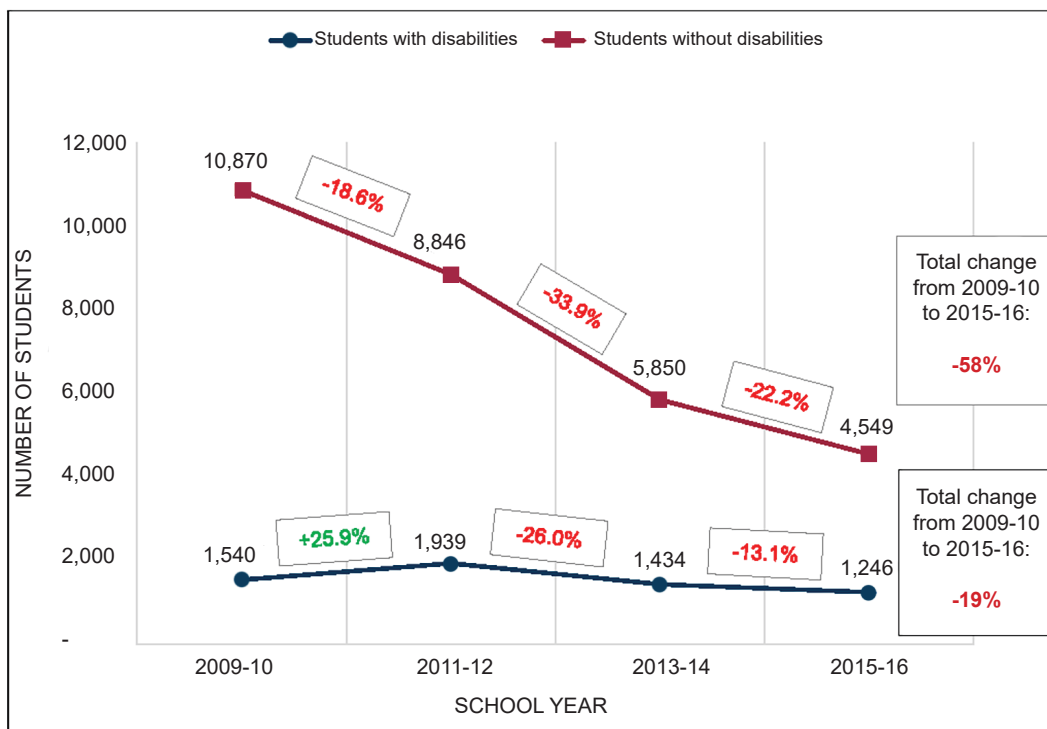


Note: The statewide rate of use includes only schools that reported corporal punishment data for any student. Schools that reported no data of corporal punishment use were excluded from the calculation.

Source: OREA analysis of U.S. Department of Education Office for Civil Rights data from 2009-10, 2011-12, 2013-14, and 2015-16 school years.

Over the past four reporting years, **the number of students without disabilities receiving corporal punishment declined at a faster rate than the number of students with disabilities receiving corporal punishment.** There were about **19 percent** fewer students with disabilities who received corporal punishment in 2015-16 than in 2009-10, while the number of students without disabilities receiving corporal punishment declined by about **58 percent** across the same time frame. The number of students without disabilities receiving corporal punishment declined for each of the four reporting years, while the number of students with disabilities who received corporal punishment peaked in 2011-12. (See Exhibit 4.)

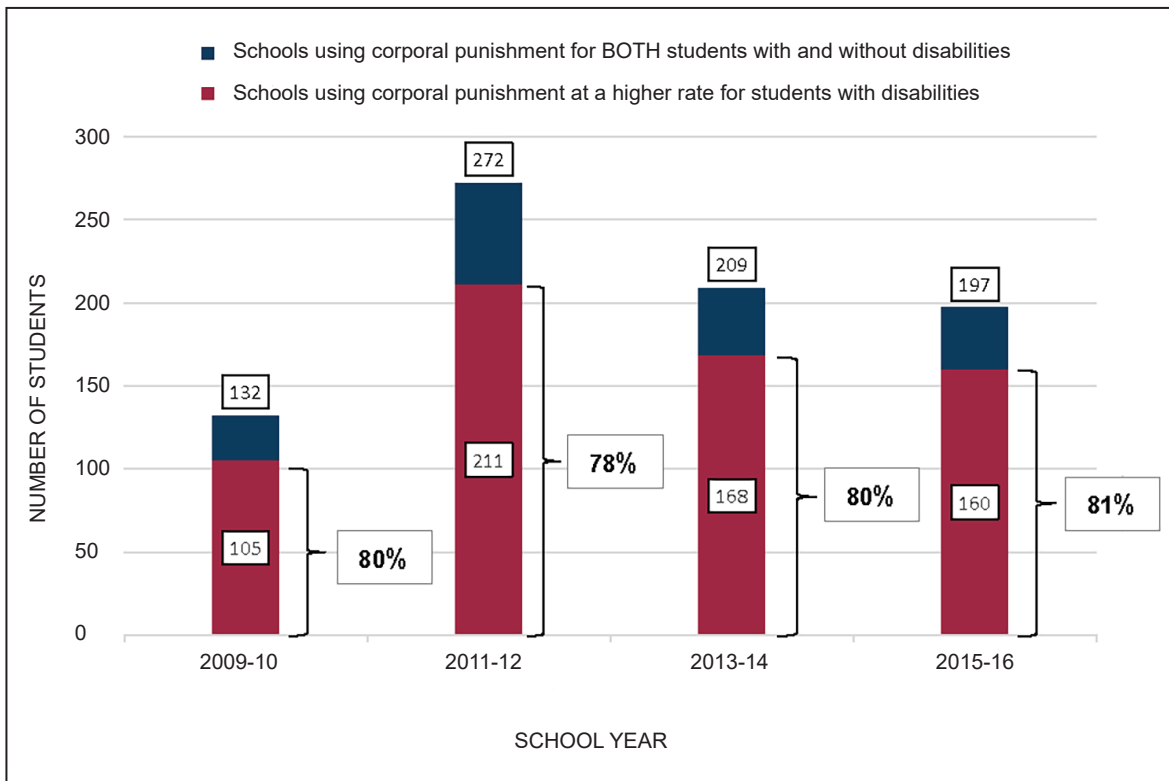
**Exhibit 4: Number of students with and without disabilities receiving corporal punishment, 2009-10, 2011-12, 2013-14, and 2015-16 school years**



Source: OREA analysis of U.S. Department of Education Office for Civil Rights data from 2009-10, 2011-12, 2013-14, and 2015-16 school years.

In all four reporting years, approximately **80 percent of the schools that reported using corporal punishment to discipline both students with and without disabilities used it at a higher rate for students with disabilities.** (See Exhibit 5.) The remaining schools (about 20 percent) used corporal punishment for students with disabilities at rates equal to or lower than students without disabilities.

**Exhibit 5: Schools using corporal punishment at a higher rate for students with disabilities, 2009-10, 2011-12, 2013-14, and 2015-16 school years**



Note: The figures include only schools that reported data of corporal punishment use for BOTH students with and without disabilities. The figures do not include schools that reported data only for students with or without disabilities.

Source: OREA analysis of U.S. Department of Education Office for Civil Rights data from 2009-10, 2011-12, 2013-14, and 2015-16 school years.

OREA’s research found that students with disabilities receive corporal punishment at disproportionate rates compared to their peers, but a lack of detailed data on corporal punishment use prevented OREA from determining which types of students with disabilities receive corporal punishment. A review of the school board policies of the 109 districts that allow the use of corporal punishment found that few districts address parental consent in their board policy, with a single district addressing the use of corporal punishment specifically for students with disabilities. With the passage of PC 900, **schools are now required to obtain written parental consent before using corporal punishment as a discipline option for a student with disabilities.**

## Contact Information

**Justin P. Wilson**  
Comptroller of the Treasury

**Jason E. Mumpower**  
Chief of Staff

**Comptroller of the Treasury**  
State Capitol  
Nashville, Tennessee 37243  
615.741.2501  
[www.comptroller.tn.gov](http://www.comptroller.tn.gov)

For more information, please visit the  
Comptroller's Office of Research and Education Accountability at:  
[www.comptroller.tn.gov/orea](http://www.comptroller.tn.gov/orea)

