

BE WARY BE WISE

Why Teachers Never Touch an Aggressive Student

Article 43 of the Criminal Code states:

43. Every school teacher, parent or person standing in the place of a parent is justified in using force by way of correction toward a pupil or child, as the case may be, who is under his care, if the force does not exceed what is reasonable under the circumstances.
[R.S. c.C-34, s.43.]

This supports the use of force to subdue a violent child.

But in reality, Case Law in Ontario has proven that teachers can be and have been charged with assault for as little as tapping an aggressive student on the shoulder. That same teacher can also be brought before the College of Teachers to defend his/her actions.

Case in Point Taken from Case Law –

An elementary special education teacher in Ontario was working with an autistic child who tended to lash out with running, kicking and biting. This teacher was also the parent of an autistic child and therefore had training and experience with autism. The autistic student became aggressive in the classroom. The teacher knew that she must maintain eye contact **and** mimic the actions of the child in question. She looked closely into the child's eyes and **mimicked** the kicking action.

Someone passing by observed what he/she thought he/she saw through the teacher's window. The person called the police. The teacher was brought to the Vice Principal's office and charged with assault by the police. The teacher was brought down to the police station, questioned, had her shoes and belt taken from her, was put in a cell, and then went through the legal process.

Eventually, a judge found her innocent and berated the crown attorney for ever allowing the case to come to trial. But, consider what this teacher went through before her innocence was proven.

Because she had an autistic child at home, the teacher was also investigated by the Children's Aid Society for fit parenthood.

Therefore the lesson to all teachers and the advice of **OECTA Provincial** is to allow the Educational Assistants to act when there is an aggressive student who must be constrained. They are not only trained, but do not fall under the auspices of the College of Teachers.

Be Wary – Be Wise.