

What follows is a summary of key guidelines for the applicability of s43 of the Criminal Code of Canada as defense available to teachers and parents if charged with assaulting a child. These guidelines were provided by the Supreme Court of Canada in *Canadian Foundation for Children and the Law v. Attorney General in Right of Canada*, 57 O.R. (3<sup>d</sup>) 511

1. **Corporal punishment of very young children:** Hitting a child under two is wrong and harmful. With very young children, even mild spanking has no value and can destroy a child's sense of security and self-esteem, essential components of a healthy nurturing environment. A child under two will not understand why he or she is being hit. [All social science witnesses in this application accepted a definition of spanking as "the administering of one or two mild to moderate 'smacks' with an open hand, on the buttocks or extremities which does not cause physical harm."]
2. **Corporal punishment of teenagers:** Is not helpful and [is] potentially harmful. There is a consensus that corporal punishment of teenagers achieves only short-term compliance and carries with it the danger of alienation from society, along with aggressive or otherwise anti-social behaviour.
3. **Use of objects in corporal punishment:** Corporal punishment using objects such as belts, rulers, etc., is potentially harmful both physically and emotionally and should not be tolerated.
4. **A slap or blow to the head:** Corporal punishment should never involve a slap or blow to the head.
5. **Injury:** Corporal punishment which causes injury is child abuse.
6. **Resort to spanking for correction:** None of the experts goes so far as to advocate or recommend spanking, or other forms of corporal punishment, as a form of child discipline. They agree that other forms of discipline, such as withdrawal of privileges or removing a child from the room, are equally effective in most cases.
7. **Absence of evidence of benefits of spanking:** There is general agreement among the experts that the only benefit of spanking to be found in the research is short-term compliance.
8. **"Time out" as an effective alternative to spanking:** The experts all endorsed the "time out" method as an effective and appropriate method of child discipline. [The "time out" method involves placing a child in a chair or room, sometimes using mild force, and requiring the child to remain there for a period of time until he or she calms down. . . .]
9. **Spanking is not child abuse:** Most of the social science witnesses and professionals, agree that spanking as defined here is not child abuse.
10. **Only abusive punishment should be criminalized.**

The consensus among the experts is that not every instance of physical discipline by a parent should be criminalized. Many believe that the desirable objective of changing societal attitudes regarding child discipline would be best achieved through educational incentives, rather than the use of criminal sanctions to prosecute non-abusive physical punishment. The experts agree that extending the reach of criminal law in this way would have a negative impact upon families and hinder parental and teacher efforts to nurture children.<sup>1</sup>

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<sup>1</sup> *Canadian Foundation for Children and the Law v. Attorney General in Right of Canada* 57 O.R. (3<sup>d</sup>) 511 at para 8.