

LEGAL MAILBAG – MARCH 6, 2025



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The “Legal Mailbag Question of the Week” is a regular feature of the CAS Weekly NewsBlast. We invite readers to submit short, law-related questions of practical concern to school administrators. Each week, we will select a question and publish an answer. While these answers cannot be considered formal legal advice, they may be of help to you and your colleagues. We may edit your questions, and we will not identify the authors. Please submit your questions to: legalmailbag@casciac.org.

Dear Legal Mailbag,

Middle school students are always pushing the boundaries, and this year is no exception. Kids talk, they fool around, and they push and shove.

This year, however, we are seeing a new twist on that last issue. When getting in trouble for hitting other students, they are claiming that they were acting in “self-defense.” One student may say something to another that the second student considers disrespectful, and the second student will smack the first student on the head in “self-defense.” Similarly, one student may shove another, and the student who was shoved will chase the first student down to hit them back in “self-defense.”

Now, I’m fully aware that there are times when kids do need to defend themselves, but I understand that such “self-defense” is reserved for a situation where the student is in imminent danger at that very moment. By contrast, responding to a rude comment or a person running away is not imminent danger.

Some of the students have even reported that their parents have directed them to hit back when they get hit, and have even questioned that the school is telling them to disobey their parents. How can I help kids see what “self-defense” literally means, and that “getting back at someone” is not “self-defense”?

Signed,
Practical Principal

Dear Practical:

You could have written this answer because your understanding of “self-defense” is correct. In Connecticut, the criminal law addresses the question of when use of physical force is justified, and you correctly point out that one student’s chasing after another to reciprocate a push, shove or punch is not self-defense.

Conn. Gen. Stat. § 53a-19 provides in relevant part:

Sec. 53a-19. Use of physical force in defense of person. (a) Except as provided in subsections (b) and (c) of this section, a person is justified in using reasonable physical force upon another person to defend himself or a third person from what he reasonably believes to be the use or imminent use of physical force, and he may use such degree of force which he reasonably believes to be necessary for such purpose; except that deadly physical force may not be used unless the actor reasonably believes that such other person is (1) using or about to use deadly physical force, or (2) inflicting or about to inflict great bodily harm.

Interestingly, the statute includes the same word, “imminent,” that you use in your question, and it allows people to engage in self-defense only when a person reasonably fears “the use or imminent use of physical force.” It is therefore nonsense for students to claim it is self-defense when they chase other students down to even the score.

Legal Mailbag has additional concerns about two things you include in your question. First, the trope “words are violence” has no place in a discussion of student interactions. To be sure, there is the concept of “fighting words” in First Amendment law. The United States Supreme Court held that “fighting words” are not protected by the First Amendment:

There are certain well defined and narrowly limited classes of speech, the prevention and punishment of which have never been thought to raise any Constitutional problem. These include the lewd and obscene, the profane, the libelous, and the insulting or "fighting" words -- those which, by their very utterance, inflict injury or tend to incite an immediate breach of the peace. It has been well observed that such utterances are no essential part of any exposition of ideas, and are of such slight social value as a step to truth that any benefit that may be derived from them is clearly outweighed by the social interest in order and morality.

Chaplinsky v. New Hampshire, 315 U.S. 568 (1942). A lot has happened since 1942, but the premise that “fighting words” are not protected speech is still valid.

That said, it would be a rare circumstance when a student uses fighting words. However, students may not respond with aggression to antagonistic speech, whether or not they are fighting words. In any event, any such retaliation is at best a response to provocation and cannot be considered self-defense.

Finally, Legal Mailbag notes your comment that some parents have instructed their children to “hit back when they get hit.” Holding students accountable for controlling their response to provocation is not directing them to disobey their parents. If a student makes that claim, Legal Mailbag would tell the students that school rules prevail in school and that their parents are welcome to call if they have any questions.