

THE LEGAL EAGLE

A LEGAL NEWSPAPER FOR KIDS
Published by New Jersey State Bar Foundation



Battles Intensify Over Social Media Bans and Free Speech

by Michael Barbella

The framers of the U.S. Constitution could never have imagined social media; however, the First Amendment to the U.S. Constitution does apply to online speech as well as the spoken or written word. Social media companies, however, have First Amendment rights as well and can impose their own rules regarding offensive or potentially dangerous speech.

The U.S. Constitution safeguards hate speech from government censorship; however, it does not protect speech that incites or is likely to incite imminent lawless action. In addition, speech that is considered an incitement to riot that may potentially disturb the peace is also not protected.

"We turn to the question of whether a social media company violates the First Amendment when it bans politicians, or anyone else, from using its services because of their speech," says Mark S. Weiner, a professor at Rutgers Law School—Newark who has written books on the relation between government and individual freedom.



CONTINUED ON PAGE 6

Garden State Serious About Protecting the Environment

by Maria Wood



The National Climate Assessment, a congressionally mandated report, which was released in November 2022, revealed that over the past 50 years America has warmed 68% faster than the planet as a whole. In addition, the report showed that the U.S. has experienced severe sea level rise.

The Garden State takes environmental concerns seriously and is pursuing several avenues to protect New Jersey's environment, including legislative action in Trenton and legal challenges in the courts.

Bagging it

In 2020, New Jersey lawmakers passed a law banning single-use plastic bags in stores. In May 2022, that law

CONTINUED ON PAGE 4

Is Corporal Punishment Making a Comeback?

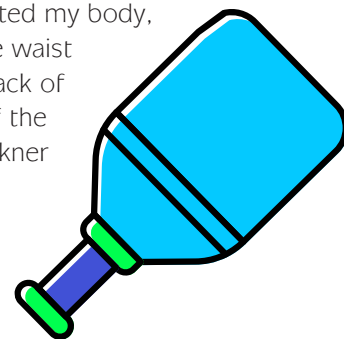
Daryl E. Lucas

Whether you're for or against the use of corporal punishment in schools, the one thing everyone probably agrees on is that the practice is not easily forgotten if it's been used on you.

In an opinion piece for NBC News' blog, S.C. Beckner, an essayist and MFA candidate at the University of North Carolina, recounted how she was paddled in school 37 years ago. The incident stayed with her as she recalled how "the first swing of three lifted my body, bent at the waist over the back of a chair, off the floor." Beckner goes on to describe in detail the bruises that prevented her from sitting for days.

In an article for *The Atlantic*, Kaleb Hill described his encounter with corporal punishment as a sixth grader in Birmingham, AL. The punishment still elicits an emotional response, both about the incident and the school official who administered the punishment.

"I still remember what the paddle looked like—wooden with holes drilled in it—I remember his face...



CONTINUED ON PAGE 2

Corporal Punishment **CONTINUED FROM PAGE 1**

what his office looked like.”

Elizabeth T. Gershoff, PhD, a professor of Human Development and Family Sciences at the University of Texas at Austin, defined corporal punishment in a 2018 academic study as, “the use of physical force with the intention of causing a child to experience pain so as to correct their misbehavior.”

In the study, published by the National Library of Medicine, Professor Gershoff, who is renowned for her research on the subject, points out that a child could receive corporal punishment for breaking nearly any school rule, from fighting to being late to school to violating the

dress code.

Many states have banned corporal

punishment—Alabama, Arkansas, Georgia, Mississippi and Texas—account for 70% of reported incidents of corporal punishment.

In private schools, corporal punishment is legal in 48 states. New Jersey banned corporal punishment from all public and private schools in 1867 and Iowa did so in 1989.

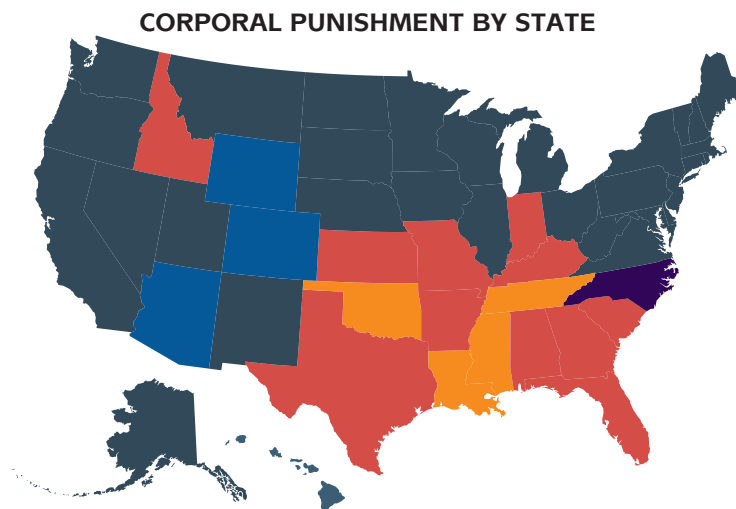
A brief history

Corporal punishment has been a common method of disciplining children since colonial times. Its roots can be traced back to England and the common law doctrine of *in loco parentis*, which is Latin for “in place of parents.” The doctrine gives authority-holders the legal responsibility to assume the role of a parent in some instances.

In 1977, the U.S. Supreme Court decided in the case of *Ingraham v. Wright* that corporal punishment can be used in schools to discipline students. The case involved a Florida eighth grader, James Ingraham, who was paddled more than 20 times and required medical attention. His infraction was being slow to leave the stage in the school’s auditorium when asked to do so by a teacher. A lawsuit was filed on behalf of Ingraham, as well as another student who was paddled at the Dade County junior high school.

The lawsuit claimed the punishment constituted “cruel and unusual punishment, violating the Eighth Amendment to the U.S. Constitution.” In a 5-4 vote, the majority decided that spanking or paddling did not constitute “cruel and unusual punishment,” and that the Eighth Amendment was designed to protect people charged and/or convicted of a crime, not school children.

According to data from the National Center for Education



ALLOWED

BANNED FOR STUDENTS WITH DISABILITIES.

ALLOWED BUT NOT REPORTED USE.

BANNED IN SOME SCHOOL DISTRICTS

BANNED

punishment in public schools; however, according to the National Conference of State Legislatures, it is still permitted in 19 states. In 11 states—Alabama, Arkansas, Florida, Georgia, Idaho, Indiana, Kansas, Kentucky, Missouri, South Carolina and Texas—corporal punishment is allowed for all students from the time they start preschool until they graduate high school. In another four states—Louisiana, Mississippi, Oklahoma and Tennessee—corporal punishment is only banned for students with disabilities. In three states—Arizona, Colorado and Wyoming—corporal punishment is allowed but there has been no reported use. In North Carolina, corporal punishment has been banned in some school districts but not statewide.

Even if a state allows corporal punishment, an individual school district can ban the practice. For example, school districts in Houston, Memphis and Atlanta ban corporal punishment even though it is legal in those states. According to data from the U.S. Department of Education, five



This publication was made possible through funding from the IOLTA Fund of the Bar of New Jersey.

Jodi L. Miller
EDITOR

EDITORIAL ADVISORY BOARD

John J. Henschel, Esq.
CHAIR

Mary M. Ace, LCSW
Kelly Ann Bird, Esq.
Risa M. Chalfin, Esq.
Eli L. Eytan, Esq.

Felicia T. Farber, Esq.
Jeremy Farrell, Esq.

Kathleen N. Fennelly, Esq.
John F. Gillick, Esq.

Hon. Lisa James-Beavers
Stuart M. Lederman, Esq.

Thomas J. Manzo, Esq.
Aruna K. Pappu, Esq.

Wendy Allyson Reek, Esq.
Margaret Leggett Tarver, Esq.
Kimberly A. Yonta, Esq.
Thomas A. Zeringo

Corporal Punishment CONTINUED FROM PAGE 2

Statistics, in the 2017-2018 school year (the most recent data) “more than 69,000 children—disproportionately Black and male—were hit almost 97,000 times.” In fact, federal statistics show that while Black students make up 16% of the student body in public schools nationwide, they receive physical punishment at nearly three times the rate of their non-Black counterparts.

Bringing it back

The Cassville School District in Missouri had banned corporal punishment in 2001. However, an anonymous survey of school employees, parents and students, which identified discipline issues as a major concern, opened the door to bringing it back. In June 2022, the Cassville school board adopted a policy that allows corporal punishment as a last resort “when all other alternative means of discipline have failed and then only in reasonable form and upon the recommendation of the principal.”

Parents were notified of the policy in August 2022 and each family was required to opt in or out. Cassville School District Superintendent Merlyn Johnson, who called corporal punishment an “old-fashioned disciplinary method,” told the press that the practice was approved by parents as one of many disciplinary interventions the schools can use on students whose behavior is inappropriate.

“We understand that it is a bit of a shock factor,” Johnson told *USA Today*. “So, if there is one kid or a few kids out there that know...there might be a different type of discipline, it might change their behavior.”

In an interview with *The Missouri News-Leader*, Johnson said, “We’ve had people actually thank us for it,” referring to the district’s corporal punishment policy. “Surprisingly, those on social media would probably be appalled to hear us say these things, but the majority of people that I’ve run

into have been supportive.”

Does it Work?

According to a study conducted by the Society for Adolescent Medicine that appeared in the *Journal of Adolescent Health*, adults who received corporal punishment as children are often strong supporters of the practice. The study reported that advocates of corporal punishment believe “children are better-controlled, learn appropriate appreciation of authority, develop better social skills, as well as improved moral character, and learn to better discipline themselves.”

In its study, the Society for Adolescent Medicine concluded that “corporal punishment in schools is an ineffective, dangerous, and unacceptable method of discipline.”

As far back as 1988, the American Academy of Child and Adolescent Psychiatry took a position on corporal punishment in schools, stating that

“New Jersey banned corporal punishment from all public and private schools in 1867.”

the practice “signals to the child that a way to settle interpersonal conflicts is to use physical force and inflict pain. Such children may in turn resort to such behavior themselves.”

In an interview with *Slate Magazine*, Stacy Patton, PhD, a professor of African American history at Howard University who wrote the book *Spare the Kids: Why Whipping Children Won’t Save Black America*, said, “Hitting between adults is illegal. A man hitting his wife, or his girlfriend is called domestic violence. If we hit animals, it’s called animal cruelty. But kids are the only group of people in this country where it is **codified** in law to assault their bodies.”

In the interview, Dr. Patton points out, “Spanking and abuse are all violent...We’ve got 50 years’ worth of science that shows that spanking is harmful to children’s bodies, their brain development, their IQ, and spanking is a form of chronic stress that can set a child up for chronic health issues like obesity, diabetes, heart issues, cancer, and even a lower life span.”

In an op-ed for *The Washington Post*, Joel Warsh, a Los Angeles pediatrician that specializes in integrative medicine, wrote, “Hitting an adult with a large wooden board would constitute an assault. There is a reason corporal punishment of adults is banned in U.S. prisons and military facilities—it is a cruel and unusual violation of an individual’s rights.”

Even with all the evidence available, some parents are hard to convince. For example, Khristina Harkey, a parent in the Cassville School District, told the Associated Press that corporal punishment worked for her when she got into trouble at school.

“There are all different types of kids,” Harkey said. “Some people need a good butt-whipping. I was one of them.”

While Harkey actually opted out of corporal punishment for her 6-year-old son, another grandparent, who is the guardian of an 8-year-old, opted in and defended the practice as a deterrent for her granddaughter.

“The child is getting spanked once; it’s not beatings,” she told the Associated Press.

What’s being done?

Despite the U.S. Supreme Court’s decision in *Ingraham v. Wright*, state legislatures can still pass laws that ban corporal punishment in schools. In addition, federal lawmakers could choose to pass a national law outlawing the practice. Over the years, several lawmakers have made that attempt.

In June 2021, Senator Chris Murphy, of Connecticut,

kicked in and New Jersey shoppers are now required to bring their own reusable bags to carry out their purchases. New Jersey's plastic bag ban followed a 2021 law restricting the use of plastic straws, which are now only given to customers upon request.

"Plastic bags end up as litter in the state's waterways," says Heather Payne, a professor at Seton Hall Law School who specializes in environmental issues. By banning plastic bags, Professor Payne says we're also reducing our dependency on oil.

"Plastic comes from petrochemical products," she says. "So, we're reducing all of the harmful impacts of oil exploration, production, and refining."

Clean Ocean Action (COA), a New Jersey-based nonprofit dedicated to protecting the waterways in New Jersey and New York, gathers data on what clean-up volunteers collect at the beach. Its 2021 Beach Sweeps Report revealed that 82% of the debris on New Jersey beaches is made of plastic, including bottle caps, lids and straws.

Though a seemingly small measure, banning plastic bags can have a major impact on the environment. California implemented a similar ban in 2016. A year later, Californians Against Waste, a nonprofit organization that works to reduce waste and pollution and increase recycling, estimated plastic grocery bag litter dropped by 72% compared to 2010. According to NorthJersey.com, New Jersey's new law has eliminated approximately three billion plastic bags since its implementation.

The plastic bag ban is just one action in the state's ongoing efforts to improve the environment. In 2020, Governor Phil Murphy signed the state's Energy Master Plan. The executive order aims to reduce the state's greenhouse gas emissions by 80% below 2006 levels. The order also sets a goal of 100% clean energy by 2050. Initiatives include increasing electric vehicle adoption and investments in clean energy methods such as wind and solar power.

"Successfully implementing the strategies outlined in the Energy Master Plan will drastically reduce New Jersey's demand for fossil fuels, reduce our carbon emissions, greatly improve local air quality, and related health impacts," Governor Murphy said in a release outlining the program.

Holding big oil accountable

In October 2022, the New Jersey Division of Consumer Affairs and the New Jersey Department of Environmental Protection filed a lawsuit in Mercer County Superior Court against five major oil and

gas companies on behalf of the residents of the state. The suit contends that the companies—Exxon Mobile, Shell Oil, Chevron Corp., BP, ConocoPhillips, as well as the American Petroleum Institute (API), a trade group for the oil industry—misled the public for decades about the impact of using fossil fuels on the climate and how that consumption would increase extreme weather conditions and sea level rise.

The lawsuit particularly accuses API of allegedly promoting disinformation about fossil fuel harms on behalf of the five **defendants** and seeks administrative penalties, **compensatory damages**, natural resource damages, and **punitive damages**.

"They went to great lengths to hide the truth and mislead the people of New Jersey, and the world," New Jersey Attorney General Matt Platkin said at a press conference in Jersey City. "In short, these companies put their profits ahead of our safety. It's long overdue that the facts be aired in a New Jersey court, and the perpetrators of the disinformation campaign pay for the harms they've caused."

Superstorm Sandy, one of the costliest hurricanes in 2012, for example, caused \$37 billion in damages in New Jersey and an estimated death toll of between 34 and 43 people.

Anna Arata, a Shell Oil spokesperson, responded to the suit in a statement, saying, "We do not believe the courtroom is the right venue to address climate change, but that smart policy from government, supported by action from all business sectors, including ours, and from civil society, is the appropriate way to reach solutions and drive progress."

The city of Hoboken filed a similar suit against big oil in 2020. Like other such suits against the fossil fuel industry, the Hoboken case has been delayed while the gas and oil companies attempt to have the cases heard in federal court where national regulations could be more favorable to them. In August 2022, Hoboken won its **appeal** to have the case heard in a New Jersey state court.

"It is abundantly clear that big oil's decades-long campaign of misinformation has had an outsized impact on coastal cities like Hoboken, as we are forced to spend hundreds of millions of dollars to adapt to climate change," Hoboken Mayor Ravi Bhalla said at the same Jersey City press conference.

Other states, including Rhode Island, Delaware, Minnesota, Massachusetts, Connecticut, and Vermont, as well as the District of Columbia, have filed similar suits against major oil companies.



Going electric

In April 2022, New Jersey joined 15 other states, as well as the District of Columbia, in a lawsuit to block the U.S. Postal Service's (USPS) purchase of 148,000 gas-powered vehicles. Filed by the attorneys general of 16 states and the District of Columbia along with Earthjustice and the Natural Resources Defense Council, the action was taken to boost the agency's fleet of electric trucks.

Transportation is one of the leading contributors to air pollution and switching to electric vehicles is a step toward cleaner air, Professor Payne says. She contends that USPS trucks, which stop and start frequently, often idling in one place, emit more toxic exhaust than a passenger vehicle. USPS trucks also travel short distances, which are easily powered by a standard battery charge.



"USPS vehicles are the perfect candidate to be electrified," Professor Payne says. "And it would be a real win for our neighborhoods not to have all of that pollution and smog coming out of the tailpipes."

U.S. Supreme Court wades into environmental issues

Environmental issues are not only front and center in New Jersey, but at the U.S. Supreme Court, as well. In June 2022, the Court limited the U.S. Environmental Protection Agency's (EPA) ability to regulate carbon emissions from power plants under the Clean Air Act. The case, brought by the state of West Virginia, questioned the EPA's regulatory control over the energy sector. By a 6-3 vote, the court sided with West

CONTINUED ON PAGE 8

NEW JERSEY SEEKS ENVIRONMENTAL JUSTICE

Another environmental action in the Garden State is New Jersey's Environment Justice Law, passed by the New Jersey Legislature in 2020. The state collected public comments on the new law and issued a draft of the final rules in June 2022. Public hearings were held in July 2022 and the new rules could take effect by the end of the year.

The law would require developers of power plants, incinerators, sewage treatment and solid waste facilities, and landfills to show how they will reduce pollution in historically marginalized communities. A marginalized community is one that has unequal power and can face discrimination or barriers to civic participation based on racial, social or economic factors. The regulations will cover existing facilities renewing a permit from the state as well as new facilities.

According to the New Jersey Department of Environmental Protection (NJDEP), New Jersey is the "first state in the nation to require mandatory permit denials if an environmental justice analysis determines a new facility will have a disproportionately negative impact on overburdened communities." The NJDEP estimates that of the 564 municipalities in New Jersey, 348 of them include overburdened communities. The population of those municipalities total more than 4.6 million residents.

Professor Heather Payne, from Seton Hall Law School, stresses that the law will mitigate harmful pollutants going into communities "already suffering a higher pollution burden."

During a roundtable discussion about the new law held in 2020, New Jersey Senator Cory Booker said, "This legislation and ultimately its implementation must do

what it set out to do—protect overburdened communities, give environmental justice communities a fair shot at breathing clean air and having clean drinking water, and address the long history of environmental justice."

Meanwhile, some business leaders contend the law could limit commerce in the state. At the same 2020 roundtable discussion, Raymond Cantor, vice president of government affairs for the New Jersey Business & Industry Association, said that while his group supported the legislation, it was too broad in its scope.

"The process alone, if this bill is not implemented in the right way by the Department of Environmental Protection, could kill off certain businesses right away," Cantor said.

Seeking justice through the courts

In August 2022, the NJDEP filed seven lawsuits against alleged polluters around the state. The suits relate to contaminated (NJDEP) industrial properties in Newark and Middlesex Borough. Another action seeks to collect \$597,000 in civil penalties owed to the NJDEP for illegal dumping at a former coal ash disposal site in Linden that was earmarked for redevelopment.

Professor Payne notes that the state has the authority to hold alleged polluters accountable.

"If polluters are not meeting the requirements of their permits, then the state can issue monetary fines in addition to injunctive action to make it so they cannot continue to pollute," Professor Payne says.

—Maria Wood



"The answer is clearly 'no' because the First Amendment applies only to government action. Individuals have no First Amendment rights against the actions of private companies. Social media companies currently have largely unrestricted power to regulate content on their platforms as they see fit."

Free speech on Twitter

Twitter, as well as other social media companies, has been accused of manipulating its **algorithm** to control content moderation. In April 2022, when billionaire Elon Musk, owner of Tesla and SpaceX, bought Twitter, he vowed to relax the social media platform's free speech rules.

In press interviews, as well as on his Twitter account, Musk has stated that he believes the rights outlined in the First Amendment are unalterable and should have no, or very few, exceptions. He was interviewed by Chris Anderson, leader of TED (Technology, Entertainment & Design) for the TED2022 conference in Canada shortly after acquiring the platform. Musk told the TED2022 audience that he would endorse more lenient policies on what can be tweeted on the platform and would also make Twitter's content ranking process more transparent. Specifically, Musk suggested open sourcing Twitter's algorithm to make it more transparent.

"Obviously, Twitter or any forum is bound by the laws of the country that it operates in. There are some limitations on free speech in the U.S. and of course, Twitter would have to abide by those rules," Musk told Anderson.

He also talked about the importance of having "an inclusive arena for free speech" and that he believes a good sign of healthy free speech is whether someone you don't like is allowed to say something that you don't agree with.

"It's damn annoying when someone you don't like says something you don't like but that is a sign of a healthy, functioning free speech situation," Musk said.

The billionaire has likened Twitter to a modern-day town square, an analogy that David Hudson, a professor at Belmont University Law School says has some merit. Professor Hudson, who has devoted his career to First Amendment issues and is a fellow for the Freedom Forum Institute, points out that "people's primary mode of communication is online" and "social media is a primary way that people communicate."

As Musk told the TED2022 audience, his basic rule of thumb for a questionable tweet is to let it stand in most cases.



"If it's a gray area, I would say let the tweet exist," Musk said. "I'm not saying I have all the answers here. But I do think we want to be very reluctant to delete things and just be very cautious with permanent bans. Time-outs I think are better than permanent bans."

Starting in November 2022, Musk began reinstating thousands of previously banned Twitter users who had violated the platform's policies.

According to the Center for Digital Hate (CCDH), slurs against marginalized groups have spiked since Musk took over Twitter and relaxed its free speech rules. For example, CCDH research revealed that before Musk took over, Twitter had an average of 1,282 tweets per day that slurred Black people. After the takeover, the number jumped to 3,876. In addition, anti-Semitic tweets increased by more than 60%.

Banning politicians

Both bans and time-outs have been used by Twitter, Facebook, and other social media companies in the last few years to punish members who violate their policy rules. Some of those rule breakers were politicians cited for inflammatory or false statements.

U.S. Representative Marjorie Taylor Greene of Georgia, for example, received several time-outs in 2021 before Twitter permanently suspended her personal account in January 2022 for violating the platform's COVID-19 or medical misinformation policy. Twitter imposed the ban after Rep. Greene tweeted unverified information about the COVID-19 vaccine. Rep. Greene's congressional account, however, remained active, as it had not broken any policy rules. Her personal account was one of the thousands that were reinstated in November 2022.

In response to Rep. Greene's suspension, as well as the many other politicians who were banned, Twitter spokeswoman Katie Rosborough told *The New York Times*, "We've been clear that, per our strike system for this policy, we will permanently suspend accounts for repeated violations."

Rosborough relayed that users could appeal and potentially reverse suspensions if they could prove their questionable tweets were factual. It is unclear whether Rep. Greene appealed any of her five suspensions.

The most high-profile suspension from Twitter was former President Donald Trump. Twitter initially disabled the President's account for 12 hours on January 6th, the day of the riot at the U.S. Capitol, then shut it down for good shortly after, saying he violated the platform's Civic Integrity Policy. When it announced the permanent ban of the former president, Twitter cited "the risk of further incitement of violence." YouTube and Facebook mirrored that rationale in suspending President Trump from their platforms. YouTube is a lifetime ban, while Facebook banned him for two years. His account is

scheduled to be reinstated on January 6, 2023. Again, with Musk taking over Twitter, the former president's account there was reinstated.

Former President Trump and other politicians criticized their suspensions, claiming they violated their free speech. Such allegations reignited a longstanding debate about the limits of free speech on social media platforms.

So, is spreading misinformation or disinformation on a social media platform protected by the First Amendment?

Professor Hudson says sometimes false speech is protected by the First Amendment and other times it is not.

"For example, if the disinformation falls into the category of fraud, it is not protected," Professor Hudson says. "If it falls into a category that causes real, cognizable harm—that is also not protected."

Regulating at the state level

According to the National Conference of State Legislatures, more than 100 bills that target social media companies' moderation practices have been proposed nationwide. These bills attempt to limit the power of social media companies.

Florida lawmakers passed a bill in May 2021 that penalized social media firms that permanently ban state politicians. Signed by Florida Governor Ron DeSantis, the Stop Social Media Censorship Act gives \$250,000 daily fines to social networks that suspend accounts of statewide office holders and \$25,000 daily penalties for banning candidates of lower (county, local) offices. The law applies to social media platforms that conduct business in Florida and generate \$100 million in annual revenue or have 100 million monthly active users globally.

In June 2021, a federal court blocked the Florida law from taking effect. In May 2022, the U.S. Court of Appeals for the 11th Circuit ruled that Florida could not prohibit social media

platforms from removing or banning political speech or politicians. "Laws that restrict platforms' ability to speak through content moderation therefore



trigger First Amendment scrutiny," the 11th Circuit Court said.

In September 2022, Florida asked the U.S. Supreme Court to review the law, noting that the U.S. Court of Appeals for the 5th Circuit allowed a similar law in Texas to take effect. That law permits the state and its residents to sue social media companies for banning, blocking, removing, or discriminating against individual posts based on users' opinions or geographic location.

The U.S. Supreme Court temporarily blocked the Texas law in May 2022 while lower courts reviewed the case. In September 2022, the 5th Circuit sided with Texas; however, the law will not take effect until the appeals court issues written instructions to the district court where the case originated.

"Do these laws violate the First Amendment? On one hand, the answer would seem to be clear-cut," Professor Weiner explains. "After all, the laws use the power of government to abridge the freedom of speech, at least the speech of corporations."

According to Professor Weiner, some legal scholars point out that the traditional legal theories preventing the government from exercising public control over social media were developed before the Internet age. The argument, he says, is that social media now has a special place in our democratic political life, and the law should recognize that role. In

addition, Professor Weiner says, the scholars argue that major companies like Facebook or Twitter are less like a simple private business and more like a telephone service or "common carrier" that can be subject to special regulation in the public interest.

"They argue Americans should be especially concerned about the power of social media corporations to restrict speech because those companies sometimes seem to act at the behest of one political party or one branch of government," Professor Weiner says.

If the U.S. Supreme Court grants Florida's request—and legal experts believe they will—its decision could potentially have consequences beyond the Sunshine State. 🗡️

DISCUSSION QUESTIONS



1. Do you agree or disagree with the concept of social media, specifically Twitter, being the equivalent of a town square where free speech should be protected? If so, should all speech be protected on these platforms, including hate speech? Explain your answer.
2. As Professor Weiner makes clear, the First Amendment applies only to government action and entities. So, private companies, like Twitter, Facebook, Instagram, etc., have the power to regulate the content on their platforms. Do you think social media companies should have that power? Explain your answer.
3. Do you support time-outs or permanent bans for users that violate the policies set up by an individual platform? Is it the responsibility of social media platforms to combat misinformation and hate speech? Explain your answer.

Garden State CONTINUED FROM PAGE 5

Virginia, saying Congress hadn't clearly given the EPA such powers.


"A decision of such magnitude and consequence rests with Congress itself, or an agency acting pursuant to a clear delegation from that representative body," Chief Justice John Roberts wrote in the Court's majority opinion.

"Whatever else this court may know about, it does not have a clue about how to address climate change," Justice Elena Kagan wrote in dissent. "Yet the court today prevents congressionally authorized agency action to curb power plants' carbon dioxide emissions. The court appoints itself—instead of Congress or the expert agency—the decision maker on climate policy. I cannot think of many things more frightening."

Despite the Court's decision, state and local authorities also have a say in capping the amount of carbon released into the air, Professor Payne says.

"The majority of carbon-based actions over the last 25 years have been at the state level, and I expect that to continue," she says. "New Jersey can absolutely continue to limit carbon emissions and increase its regulations on carbon to whatever extent it chooses."

According to the Pew Center on Global Climate Change, now known as the Center for Climate and Energy Solutions,

29 states, including New Jersey, have climate action plans. In addition, the Clean Energy States Alliance, a **bipartisan** US coalition of state energy agencies, maintains that 21 states, plus Puerto Rico and the District of Columbia, have clean energy target dates. 

DISCUSSION QUESTIONS




1. Do you agree or disagree with the statement from the Shell Oil spokesperson that the courtroom is the "wrong venue to address climate change"? If not the courtroom, where would the proper place be? Explain your answer.
2. The article, as well as the accompanying sidebar, outlines several efforts that New Jersey is making to protect the environment. What other steps would you suggest that the state take to protect the environment and curb climate change? If you could pass legislation to protect the environment, what would it include?
3. The U.S. Supreme Court limited the EPA's ability to regulate carbon emissions. Do you agree or disagree with the Court's ruling? Explain your answer.

Corporal Punishment CONTINUED FROM PAGE 3

reintroduced legislation to abolish corporal punishment. The Protecting Our Students in Schools Act would require the U.S. Department of Education to withhold funding from any school that allows its employees to use corporal punishment on its students.

The bill would allow the federal government to provide grants to pay school districts to invest in evidence-based practices that "promote positive school culture and climate," which includes professional training and

other resources. The bill includes other provisions that allow federal authorities to enforce these changes to schools and to assess their progress.

Despite receiving endorsements from dozens of organizations, including the National Education Association, the National Association of School Psychologists, and the American Professional Society on the Abuse of Children, the legislation never made it to a vote in Congress. 

DISCUSSION QUESTIONS



1. With its ruling in 1977, the U.S. Supreme Court said that corporal punishment is not a form of "cruel and unusual" punishment and only covers those accused of crimes, not schoolchildren. Do you agree or disagree with the Court? Explain your answer.
2. What do you think of the fact that many of those who have lived with corporal punishment advocate in favor of it?
3. Although it has been outlawed in New Jersey since 1867, how would you feel if corporal punishment was a disciplinary option in your school?

GLOSSARY

algorithm — a process or set of rules to be followed in calculations or other problem-solving operations, especially by a computer.

appeal — a request that a higher court review the decision of a lower court.

bipartisan — supported by both political parties.

codify — organize laws or rules into a systematic code.

compensatory damages — money awarded to an injured party to compensate for damages, injury or other loss.

defendant — in a legal case, the person accused of civil wrongdoing or a criminal act.

punitive damages — damages that exceed simple compensation, which are awarded for the purpose of punishing the defendant.