Guste: Parent consent not needed for student spanking

State law clearly allows school officials to spank students without their parents' permission, according to Attorney General William Guste.

Even school boards cannot prevent their teachers and principals from using corporal punishment, although school boards are required to regulate its use, Guste said in a legal opinion released Wednesday.

Department of Education Attorney David Hamilton said Guste's ruling, if allowed to stand, "is an invasion of parental rights the likes of which has not been seen in this nation before."

Guste "totally misconstrued" a 1976 law, Hamilton said. He predicted some parent will take the issue to court.

Guste said Education Superintendent Kelly Nix asked for Guste's legal advice after the Department of Health and Human Resources, as the legal guardian of foster children, protested corporal punishment being used against foster children in St. Mary Parish.

Guste's opinion, drafted by staff attorney David G. Sanders, cited Supreme Court rulings and the 1976 state law to argue its case that school officials have a right to use physical punishment without parental approval.

The law says in part: "Any teacher or school principal may use corporal punishment in a reasonable manner against any pupil for good cause in order to maintain discipline."

The law orders local school boards to adopt any policy or procedure "reasonably necessary as a disciplinary tool in the education process without the need for parental consent," he concluded.

Guste said such a conclusion is a violation of a parent's constitutional rights.

He said the 1976 law was adopted only because education officials discovered that state law did not specifically allow corporal punishment. He said it was never intended to provide a blanket power for school officials to discipline students against their parents' wishes.

"I don't think the Legislature intended to diminish the authority of a parent to punish their child," Hamilton said.

"This is another attempted step toward state control of upbringing," he said.

Hamilton said he feels parents have a right to tell school officials not to physically punish a child, but to instead send him home with a report on his bad behavior.

He said Guste's opinion is only advisory and does not carry the force of law.

"I think this is going to be settled in court," he said.