

LITIGATION INVOLVING STUDENT MISCONDUCT IN SCHOOLS

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ABSTRACT

Schools from state to state deal with the issues of student misconduct and discipline. These issues often lead to instances of litigation. This trend is rapidly increasing and challenging for school administrators. It is important for educators to be knowledgeable of issues and trends involving student misconduct and discipline, in order to avoid unnecessary litigation.

The purpose of this study was to examine litigation issues involving student misconduct and discipline in schools. This research highlights various aspects involving student misconduct and discipline in educational settings. This study provides insight into legal issues, outcomes, trends, and guidelines to increase knowledge and possibly prevent potential litigation.

The research design of this study consisted of qualitative, descriptive, historical-based document analysis. Court case documents were analyzed between the time period from 1982 to 2011. Cases were identified using *West's Law Education Digest* Keynumber Schools 169, control of pupils and discipline in general. Cases were briefed by outlining the following: citations, key facts, issue, holdings, reasoning, and disposition. Production of data focused on case background, court outcomes, and supportive reasoning of decisions. Research focused on litigation in the area of student misconduct and discipline, offering educational administrators insightful information to assist in carrying out the daily responsibilities involving student misconduct and discipline.

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CHAPTER I

INTRODUCTION/RATIONALE

Introduction

Schools across the country are constantly dealing with issues involving student misconduct and discipline. Recent trends in the United States indicate that student misconduct and discipline issues are not exclusive to school districts or P-12 settings. Institutions of higher education are also feeling the burden of dealing with ethical and behavioral issues.

A myriad of behavioral conflicts and disciplinary issues have overwhelmed teachers and educators of all grade levels on a daily basis since the original establishment of schools. An increase of conflicts and student rebellion in the American classroom were noted in the 1960s and 1970s and continues to elevate (Holton, 1999, p. 59). The range of conflict and incivility in the American classroom varies from minor inattentiveness to physical aggression (Holton, 1999, p. 59).

Working in the field of education allows vast opportunities to work with and observe students on a daily basis and at a personal level. Through the interactions and experience with students, educators constantly deal with student conflict issues of misconduct and discipline. It is extremely important that all educators are knowledgeable of current codes of conduct, policies and procedures, and applicable litigation associated with student misconduct and discipline issues. It is also critical that student misconduct and discipline issues are handled in a fair and consistent manner allowing students due process. This paper examined current

trends in student misconduct and discipline, including how courts have ruled in litigation involving student misconduct and discipline.

Statement of the Problem

Student misconduct and discipline issues are constantly increasing in all areas of education (Anderson, 1999). School and university faculty and staff are overwhelmed with excessive lack of ethics and poor judgment in students (Anderson, 1999, p. 70). Researchers indicate that the current breed of student is self-centered and lacking the work ethic and achievement motivation historically attributed to students (Anderson, 1999, p. 69). School faculty and administration find it difficult to promote student learning and success with the challenges presented by the student body. Faculty and administration bear the burden of implementing disciplinary procedures that are fair, consistent, and follow the policies and procedures of the institution while remaining focused on the primary mission of education, to impart the fundamentals of knowledge. Given that faculty and administration share in the responsibility of implementing fair procedural practices, all parties should be knowledgeable of current trends and litigation impacting disciplinary issues in addition to teaching the curriculum (Anderson, 1999).

The current and traditional focus of education is curriculum, accountability, and assessment. Education reform implementation places restrictions on classroom curriculum due to increased demands of accountability. As accountability demands increase, teachers are pressured to teach the test and neglect civility and citizenship in the shaping and restructuring of society (Tiberius & Flak, 1999, p. 3). With that in mind, issues such as classroom management and disciplinary policy and procedure are often overlooked and under-stressed. As a result, faculty

and administration receive minimal training in the areas of student misconduct and discipline and classroom conflict increases (Anderson, 1999, p. 70). Consequently, of the limited training received in the areas of student misconduct and discipline, an insufficient amount is dedicated to training involving litigation, leaving educators unprepared, uninformed, and open to potential litigation.

Significance of the Study

School faculty and administrators receive limited training on litigation involving student misconduct and discipline in schools. With the growing amount of litigation and increased attention on schools, educators need to be better equipped to handle student misconduct and discipline situations potentially resulting in litigation. Optimistically, this study will provide valuable insight into the legal issues, outcomes, and trends associated with student misconduct and discipline providing guidelines to enlighten educators, and assisting in the prevention of possible legal problems.

Purpose of the Study

The purpose of this research was to examine litigation issues student misconduct and discipline issues. This paper also highlighted trends involving student misconduct and increasing discipline measures in education. Educators need to protect themselves against situations that yield high litigation potential. In order to avoid unnecessary litigation, school officials must have current knowledge of trends involving student misconduct and relevant court cases and practical implications.

Research Questions

1. What issues regarding student misconduct and discipline in K-12 schools have been identified by federal courts in West's Education Law Digest Schools 169, Control of pupils and discipline in general between 1982 and 2011?
2. What outcomes have occurred in court cases involving student misconduct and discipline in K-12 schools?
3. What legal trends have developed through federal and state case law with regard to student misconduct and discipline?
4. What legal principles for school administrators can be discovered from court cases about student misconduct and discipline in K-12 schools?

Assumptions

This study was based on the following assumptions:

1. The editors for West's Education Law Reporter and West's Education Law Digest provided accurate, sufficient, and consistent identification of court cases on the topic of student misconduct and discipline in schools in the timeframe between 1982 and 2011, located in *West's Education Law Digest* Key Number Schools 169, Control of pupils and discipline in general.
2. Each court case analyzed provided sufficient information to complete a thorough case brief analysis, including the court decision rationale.
3. The outcomes of the analyzed court cases provided adequate information to determine guidelines for school faculty and administration.

Limitations

The scope of this study was limited to cases related to student misconduct and discipline in schools and adjudicated in the timeframe between 1982 and 2011, located in *West's Education Law Digest* Key Number Schools 169, Control of pupils and discipline in general. The case analysis includes cases brought before the State Courts of Appeal, Federal District Courts, State Supreme Courts, and the United States Supreme Court. In addition, the researcher is an educator and was not trained as an attorney. As a result, the research of the study was developed from the viewpoint of an educator.

Definitions

Due to the usage of distinctive language from two separate occupations, numerous terms require a definition. A listing of education and legal definitions used within the context of this paper are presented below. Unless specified otherwise, general education definitions are taken from Encarta Dictionary: English (North America). Legal definitions are taken from Black's Law Dictionary: English (North America) or the glossary of Statsky and Wernet's *Case Analysis and Fundamentals of Legal Writing*.

Annotation--A brief summary of facts and decision in a case, esp. one involving statutory interpretation (Statsky & Wernet, 1995).

Appeal--A proceeding undertaken to have a decision reconsidered by a higher authority; esp., the submission of a lower court's or agency's decision to a higher court for review and possible reversal (Garner, 2004).

Appellant--The party who appeals the lower court's decision, usu. Seeking reversal of that decision (Statsky & Wernet, 1995).

Appellee--The party against whom the appeal is taken and whose role is to respond to that appeal (Garner, 2004).

Brief--A written statement setting out the legal contentions of a party in litigation, esp. on appeal; a document prepared by counsel as the basis for arguing a case, consisting of legal and factual arguments and the authorities in support of them (Garner, 2004).

Case--A civil or criminal proceeding, action, suit, or controversy at law or in equity (Garner, 2004).

Case Note--A short statement summarizing a case, esp. the relevant facts, the issues, the holding, and the court's reasoning (Statsky & Werner, 1995).

Citation--A court issued writ that commands a person to appear at a certain time and place to do something demanded in the writ, or to show cause for not doing so (Statsky & Wernet, 1995).

Defendant--A person sued in a civil proceeding or accused in a criminal proceeding (Garner, 2004).

Digest--An index of legal propositions showing which cases support each proposition, a collection of summaries of reported cases, arranged by subject and subdivided by jurisdiction and court (Statsky & Wernet, 1995).

Due process--The conduct of legal proceedings according to established rules and the principles for the protection and enforcement of private rights, including notice and the right to a fair hearing before a tribunal with the power to decide a case (Garner, 2004).

Hearsay--Traditionally, testimony that is given by a witness who relates not what he or she knows personally, but what others have said, and that is therefore dependent on the credibility of someone other than the witness (Garner, 2004).

Holding--A court's determination of a matter of law pivotal to its decision; a principle drawn from such a decision (Garner, 2004).

Incivility--rude or impolite behavior or language (Holton, 1999).

Judgment--A court's final determination of the rights and obligations of the parties in a case (Statsky & Wernet, 1995).

Key fact--A fact that is essential to the court's holding. A fact that would have changed the holding if that fact had been different or had not been in the opinion (Statsky & Wernet, 1995).

Key-number system--A legal-research indexing system developed by West Publishing Company to catalogue American case law with headnotes (Statsky & Wernet, 1995).

Litigation--The process of carrying on a lawsuit (Statsky & Wernet, 1995).

Material evidence--Evidence that is likely to affect the determination of a matter or issue, specifically evidence that warrants reopening of a claim or reversal of conviction because, but for circumstances that the evidence was unavailable, the outcome of the first proceeding would have been different (Garner, 2004).

Misbehavior--unacceptable behavior, especially naughtiness, disobedience, or troublesomeness on the part of children. Misbehavior implies that a student has intentionally done something wrong (Geiger, 2000).

Mistaken behavior--implies that a mistake has been made in the process of learning unintentionally (Geiger, 2000).

Negligence--The failure to exercise the standard of care that a reasonably prudent person would have exercised in a similar situation; any conduct that falls below legal standard

established to protect others against unreasonable risk of harm, except for conduct that is intentionally, wantonly, or willfully disregarding of others' rights (Garner, 2004).

Negligence per se--Negligence established by a matter of law, so that breach of the duty is not a jury question (Garner, 2004).

Opinion--A court's written statement explaining its decision in a given case, usually including the statement of facts, points of law, rationale, and dicta (Statsky & Wernet, 1995).

Plaintiff--The party who brings a civil suit in a court of law (Statsky & Wernet, 1995).

Pro se--One who represents oneself in a court proceeding without the assistance of a lawyer (Garner, 2004).

Reasonable suspicion--an objectively justifiable suspicion that is based on specific facts or circumstances and that justifies stopping and sometimes searching (as by frisking) a person thought to be involved in criminal activity at the time (Garner, 2004).

Reasoning--The explanation of why a court reached a particular holding for a particular issue (Statsky & Wernet, 1995).

Respondent--The party against whom an appeal is taken (Statsky & Wernet, 1995).

Standing--A party's right to make a legal claim or seek judicial enforcement of a duty or right (Garner, 2004).

Summary judgment--A judgment granted on a claim or defense about which there is no genuine issue of material fact and upon which the movant is entitled to prevail as a matter of law (Garner, 2004).

Syllabus--An abstract or outline of a topic of course of study (Statsky & Wernet, 1995).

Tort--A civil wrong, other than breach of contract, for which a remedy may be obtained, usu. in the form of damages; a breach of a duty that the law imposes on persons who stand in a particular relation to one another (Garner, 2004).

Venue--The proper or a possible place for a lawsuit to proceed, usu. because the place has some connection either with the events that gave rise to the lawsuit or with the plaintiff or the defendant (Garner, 2004).

Organization of the Study

Chapter I introduced the study outlining a written problem statement, purpose, and significance of the study. A listing of research questions guiding the study along with perceived study limitations and researcher assumptions were included. Chapter I concluded with a list of relevant definitions and a research outline of the organization of the study.

Chapter II includes a review of available current literature in the areas related to student misconduct and discipline. The topics explored include student misconduct, student discipline issues, student discipline policies, strategies, historical perspectives, and legal implications.

Chapter III provides a description of the qualitative and descriptive methodology utilized within the context of this study.

Chapter IV includes the case briefs of current court cases providing a foundation of the study. The produced case briefs were detailed utilizing the methods supported by Statsky and Wernet in *Case Analysis and Fundamentals of Legal Writing* (1995). The chapter concludes with an analysis of the data derived from the case briefs.

Chapter V includes a detailed summary of the answers to the research questions for the study, conclusions described by the researcher, and recommendations for additional study

including the principles for school leaders which will-assist in preparation in potential situations involving litigation.

CHAPTER II

LITERATURE REVIEW

Introduction

Scholarly literature in the areas of student discipline and misconduct in schools incorporating litigation and legal issues is scarce. However, general scholarly literature on student discipline and misconduct in educational institutions is of great abundance. This wealth of literature provides growing evidence that student disciplinary issues and misconduct are increasing across our nation's schools. Therefore, this review will focus on the historical perspectives of student discipline and misconduct, discipline strategies and approaches as they relate to litigation, along with legal aspects to assist educators in understanding the information included in the legal analysis.

Historical Perspectives

Student discipline is a growing concern throughout the history of education. Professional educators are constantly dealing with increased student misconduct and discipline issues (Monroe, 2006, p. 163). As a result educators are spending more time dealing with various student misconduct and discipline and less time focusing on the aspects of teaching and learning.

Day-to-day student misbehavior and discipline problems have a direct impact on student learning and achievement. Educators should be knowledgeable of the effectiveness or ineffectiveness of their classroom management and discipline techniques. Classrooms that lack

discipline not only decrease student learning, but also contribute to additional teacher stress and burnout (Geiger, 2000).

Classroom misbehavior is defined as “students’ actions that distract from, disrupt, compete with, or threaten learning in the classroom” (Geiger, 2000, p. 383) ranging from simple disruptions to more serious aggressive actions. Geiger (2000) reported that the most frequently occurring classroom discipline problems include the following disruptions:

- talking and fidgeting,
- defiance and disrespectful behavior and disobedience, and
- lack of attention and being off task.

These three categories collectively represent 79% of student misbehavior in the classroom.

The public school community views this issue as a lack of discipline. A recent Gallup Poll listed this lack of discipline as one of the educational systems’ most serious problems. As a result, many classrooms are inundated by various types of misbehavior. Schools administrators along with parents and students outline multiple problems in the school and community environment which cause overwhelming classroom disruptions. Some of the various disruptions include drug use, academic dishonesty, absenteeism, and disobedience (Cotton, 2001).

Student discipline is associated with both preventing student misbehavior and/or punishment. Discipline, as defined in the Encarta (1999) dictionary, includes the following definitions:

1. **training to ensure proper behavior:** the practice or methods of teaching and enforcing acceptable patterns of behavior;
2. **order and control:** a controlled orderly state, especially in a class of schoolchildren;
3. **calm controlled behavior:** the ability to behave in a controlled and calm way even in a difficult or stressful situation;
4. **conscious control over lifestyle:** mental self-control used in directing or changing behavior, learning something, or training for something;

5. punishment: punishment designed to teach somebody obedience. (Soukhanov, 1999 n.p.)

Jones (1979) stated that discipline is “the business of enforcing simple classroom rules that facilitate learning and minimize disruption.” Even though multiple discipline definitions exist, researchers agree that prevention is the key for successful educational settings (Cotton, 2001).

Multiple researchers attribute the escalation of school discipline problems to the ineffectiveness of school discipline policies. This is based upon the findings that school discipline policy implementation fails to justify delivering a moral message for student conduct (Goodman, 2006, p. 213). Goodman suggested that for school discipline codes to be effective they must categorize three types of infractions: moral infractions, conventional infractions, and derivatively moral infractions.

Moral infractions often consist of multiple random acts of violence including vandalism and various aspects of deception. Conventional infractions consist of non-moral actions that violate policy or procedure. In addition, derivatively moral infractions include the violation of rules that yields possible moral interpretations (Goodman, 2006, p. 213).

Research suggests that there is a lack of moral development in comprehensive student development. Moral development allows students to differentiate between the concepts of right and wrong. Educators, especially university faculty, often maintain a relaxed attitude toward moral development. However, educators responsible for student discipline also have an obligation to address moral and ethical issues (Mullane, 1999, p. 86).

In many cases, discipline is often referred to or viewed as an ethical or moral issue. Educators should always communicate a clearly outlined behavior code and detailed expectations to all students. When student misbehavior occurs, inappropriate actions are displayed publicly. However, when student discipline is enforced, it is done quietly away from

the group. This can, in some cases, become a problem for teachers and administrators. When students fail to see that inappropriate behavior leads to negative consequences, they begin to feel that modeling good or acceptable behavior is worthless. They feel cheated when other students consistently misbehave and it is perceived that the appropriate consequences are not enforced. Therefore, it is imperative that students are shown that all inappropriate actions yield consequences (Bonnell, 2003).

Educators have varying views toward student misconduct and discipline according to level of instruction. Teachers and administrators in P-12 schools view misconduct as an inclusive part of the education process. They accept discipline as being one of the many functions or roles that they are required to provide as educators and are proactive in outlining and teaching their expectations of student conduct and disciplinary consequences. Higher education faculty and administrators possess an alternate view of student misconduct and discipline. College and university educators view discipline as a separate domain. They attribute discipline as being external or in addition to their role in providing a quality education. Policy rules and regulations are outlined; however, they are only emphasized when actual disciplinary issues occur. This factor categorizes higher education faculty and administration as being reactive versus proactive in their perception of student misconduct and discipline (Bonnell, 2003).

Effective classroom management requires a combination of both management skills and appropriate strategies or techniques. In order to control student behavior, teachers and administrators must be able to effectively implement both elements simultaneously. Techniques are essential in “providing concrete actions to deal with specific problems and behaviors” (Short, 1994, p. 567). Classroom management skills differ according to the choice and actions of the person responsible for implementation. Teachers and administrators decide how they will handle

various discipline problems. The manner in which they react in response to discipline issues depends on their personal beliefs, influential experiences, and expectations (Short, 1994).

Research (Short, 1994) suggests that organizational factors are possibly more important than classroom management techniques in explaining the facets of and dealing with student discipline. Discipline issues may arise due to organizational characteristics depending on how schools and classrooms are organized and function on a daily basis. Proactive strategies involving all stakeholders, students, teachers, parents, and administrators in planning and implementing change reduce disciplinary issues and promote community cohesiveness within the school climate.

Climate is also a critical element of school organization in reference to discipline. School cultures including all stakeholders must embrace shared values of what is perceived to be appropriate and inappropriate behavior in the school environment. For this element to be effective in producing a positive organizational culture, certain organizational characteristics must exist. These organizational characteristics include commitment, defining all roles, promoting student involvement, and a clear plan of action (Short, 1994).

Discipline plays a dynamic role in classroom instruction. Inappropriate behavior disrupts the learning process and fosters an unsafe environment for both school and community. School leaders should define inappropriate behavior clearly and focus on behaviors within their jurisdiction to handle. The development of school policies and procedures should be specific in addressing misconduct.

Leadership, in all its forms, must operate under a giant umbrella of laws, rules, and regulations that can be referred to as public policy. Whether that policy is mandated in the U.S. constitution, formulated by Congress, enacted by state legislatures, or adopted by local school boards or school committees, it basically becomes the law of the land under which leadership must be shaped. (Davis, 2006, p. 105)

Education of youth has been seen as essential in shaping the well-being of society since the early days of the American settlement (Davis, 2006).

Schools deal with a myriad of discipline issues on an ongoing basis. However, Gorton and Schneider (1991) have outlined four distinct common categories that slightly vary from the categories provided by Geiger (2000). Gorton and Schneider (1991) outline that the majority of discipline problems fall into:

1. Classroom misbehavior
2. Misbehavior on school property, but outside the classroom setting
3. Truancy
4. And tardiness

Behavior issues that are more serious in nature fall into the hands of legal authorities. Illegal drugs, weapons on campus, and vandalism fall under the realm of legal authorities.

A new disciplinary concept was introduced to target students who bring weapons on school campuses. In 1994, the Gun-Free Schools Act of 1994 mandated that states enact legislation to require a minimum 1-year expulsion policy for students with firearms on school campuses. Superintendents derived zero tolerance policies from this legislation. Zero tolerance declares the absence of suitable justification for behavior in specific circumstances. School boards have traditionally adopted these policies in good faith hoping to improve the overall safety in schools. Some feel that this policy can be somewhat harsh and believe that more flexibility should be allowed in determining intent. In *Ratner v. Loudon Co. Pub. Schools* (2002), a 13-year old brought a knife to school and planned to attempt suicide. A friend took the knife and stored it in his locker to prevent the student from harming himself. When the principal recovered the weapon he was compelled to enforce the zero tolerance policy without giving regard to the student's intent to help his friend. The Fourth Circuit Court upheld the systems policy and 4-month expulsion, but noted the harshness of the punishment.

Drug testing programs targeting specific subgroups have been devised to assist in controlling drug use in schools. In 1995, the U.S. Supreme Court supported the ruling from *Vernonia School District 47J v. Acton* (1995), which permitted student athletes to undergo random drug testing. In 2002, the policy was again supported in *Board of Education v. Earls* (2002). The court expressed that this policy was “entirely reasonable” and testing all student athletes was legal due to the growing usage of drugs (Gray & Smith, 2007).

Discipline Approaches

It is to no surprise that classroom misbehavior is a major concern for teachers, leaving them feeling overwhelmed. However, teachers feel higher levels of stress due to the perception that they are inadequately prepared to handle student misbehavior. In addition, this inadequacy can often increase the frequency of misbehavior in the classroom. Teachers enable and increase behavior problems when they are often harsh and attentive to negative behavior instead of being attentive to positive behavior. Patterson and Reid (1970) believed that student-teacher relationships played a dynamic role in the management of student behavior. They suggested that interpersonal relationships vary and determine the nature as being either coercive or reciprocal. Coercive relationships are categorized as “aggressive attempts by one of the interactants to withdraw from an interaction or to get what she/he wants and which tend to lead to escalating aggression in the interaction” (Martin, Linfoot, & Stevenson, 1999, p. 347). Reciprocal relationships differ in that they “reflect a more positive and mutually acceptable exchange” (Martin et al., 1999, p. 347).

Researchers attribute teacher efficacy as a key contributor to responding to student misbehavior. Teacher efficacy is defined as follows:

the extent to which a teacher believes that she or he can influence students' behavior and their academic achievement, especially of pupils with difficulties or those with particularly low learning motivation. The conceptualization of teacher efficacy is based on the breadth of the teacher's role. In most studies, this involves only the classroom in which the teacher engages in education and teaching. In some conceptualizations teacher efficacy includes classroom management and student engagement aspects. Thus, the conceptualization of teacher efficacy in the literature has focused on the teacher's perception of his or her own competence and on the ability of teaching as a professional discipline to shape students' knowledge, values, and behavior. (Friedman, 2001, p. 675)

A teacher's efficacy in controlling student behavior, along with the beliefs of the reasons for student behavior or misbehavior, determines the manner in which a teacher responds or reacts to the behavior. In addition, "confidence or self-efficacy has been linked to adaptive functioning and control over one's environment" (Martin et al., 1999, p. 348).

The current trend in the 21st century is to discover new sensible ways of organizing and maintaining discipline in schools. As a result, a myriad of discipline approaches emerge to assist educators in promoting positive school cultures with effective organizational management procedures. The purpose of the development of these various discipline approaches or models is to provide support and organization for teachers in shaping positive climates and enriched instruction in the classroom. Some of the approaches are extremely detailed while others simply provide an outline to easily align with any school or classroom setting. It is the responsibility of individual educators to determine the approach that meets the needs of their school environment. The most popular and influential discipline approach theorists include Thomas Gordon, William Glasser, and Lee Cantor. Each of their models focuses on enhancing discipline in the classroom setting with varying degrees of teacher control (Psunder, 2005).

Gordon focuses his teachings on building effective relationships involving minimal teacher control. His theory was based on the belief that persuasive power can potentially damage relationships. He also believed that children have the ability to control their own behavior.

According to this model, the teacher's role is to guide students in the recognition of inappropriate behavior and the selection of appropriate consequences (Psunder, 2005).

Glasser's views in discipline emphasize a more democratic view of classroom management and discipline. His model, Reality Therapy, provide a balance of classroom control and responsibility between the teacher and the students. Glasser refers to cooperation as being the essential component of his discipline approach theory. Teachers and students collaboratively work together in determining appropriate behavior and consequences for inappropriate behavior. Students are active participants in this democratic discipline process teaching them their role as responsible citizens (Psunder, 2005).

Cantor's Assertive Discipline Model is one of the most popular and effective discipline approaches utilized by educators. Assertive discipline provides the teacher with increased power in implementing intervention strategies. Cantor's theory contradicts Gordon's by viewing students as being incapable of having the full capacity to control their behavior and make responsible decisions. Teachers are responsible for determining rules and appropriate behavior, reinforcing appropriate behavior, and reducing inappropriate behavior through redirection (Psunder, 2005).

Assertive Discipline

“Assertive discipline is a structured, systematic approach designed to assist educators in running an organized, teacher-in-charge classroom environment” (Weber, 2003, p. 1). Assertive discipline was developed by Lee and Marlene Cantor as a response to the lack of control that many teachers experience in the classroom, which is ascribed to the increasing lack of behavior

management training. Today, assertive discipline is the most popular classroom behavior management program used by teachers and administrators (Weber, 2003).

No one benefits in situations where students continuously disrupt the learning environment. Therefore, it is imperative for students to comply with policies, rules, and procedures in order to efficiently manage and maintain an effective learning environment. Teachers implementing the assertive discipline approach are able to react assertively and promptly in situations when behavior management is necessary. Utilizing assertive discipline practices allows teachers to firmly take charge of their classroom environment.

Assertive Discipline Procedures

1. Determine 3-5 specific rules to implement in the classroom.
2. Create a discipline hierarchy outlining 3-6 negative consequences with each being more punitive than the previous consequence.
3. Determine positive consequences to reward students for appropriate behavior
4. Introduce students to the discipline procedure. Explain rules and why they are necessary in the classroom and society.
5. Distribute a handout explaining rules and consequences for parent to sign and return.
6. Begin program implementation.
7. Implement assertive discipline techniques quickly and consistently (Weber, 2003).

Judicious discipline is another growing democratic approach that has evolved from a national concern that student discipline and school violence measures are most often reactive than proactive. Judicious discipline is a “comprehensive approach to democratic management that is based on the constitutional principles of personal rights balances against societal needs” (Landau & Gathercoal, 2000, p. 1). This management approach allows students opportunities to be active participants in the classroom procedural structure. Students are able to practice exercising their own individual rights and responsibilities. In addition, this approach promotes critical thinking, rational decision making, and positive school climates (Landau & Gathercoal, 2000).

Teachers implementing judicious discipline begin by teaching students their constitutional rights and personal freedoms. Next, students learn the elements of democracy and societal responsibilities. The teacher then adapts the state interest into classroom rules: health and safety--be safe; property loss and damage--protect your property; legitimate educational purpose--do your best work; and serious disruption--respect the needs of others (Landau & Gathercoal, 2000). Finally, “students learn to govern their own behaviors by assessing their actions” in terms of the expectations of society (Landau & Gathercoal, 2000, p. 1).

Judicious discipline is proactive in the sense that it simply does not wait for student discipline and school violence issues to arise. Research consistently indicates a decrease in dropout rates, violent acts in and around schools, and office referrals. This approach also results in an increase of daily attendance. In addition teachers report positive results in decreases of fighting and disruptive outburst (Landau & Gathercoal, 2000).

How the Courts View Discipline

In determining appropriate and effective discipline strategies, the goals of discipline must be evident. Bagley (1917) identified two goals of discipline as being fundamental in a democratic society.

First Goal: “The creation and preservation of the conditions that are essential to the orderly progress of the work for which school exists” (Bagley, 1917, p. 10).

Second Goal: “The preparation of the pupils for effective participation in an organized adult society, which while granting many liberties balances each one with a corresponding responsibility” (Bagley, 1917, p. 10).

Given these fundamental goals, educators must consider that there is no universal theory to be applied in any given situation (Psunder, 2005). Teacher educators must take into account their individual knowledge and judgment including varying factors to determine the most effective approach for their classroom environment (Martin & Sugarman, 1993).

Providing that we live in a democratic society, individual rights must be clearly observed. Children's rights are enforced through the Convention on the Rights of the Child (Convention on the Rights of the Child, 1996). Article 19 of the Convention relate to discipline and provide guidelines for teachers and administrators for legal implementation.

Article 19

1. States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.

2. Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement. (Convention on the Rights of the Child, 1996, p. 5)

The United States Constitution

“Several articles in the Bill of Rights impact the school on a daily basis, in particular the First, Fourth, and Fourteenth Amendments, or the “Big Three.” These amendments appear uncomplicated and straightforward. However, their application and interpretation in schools can be extremely difficult (Davis, 2006, p. 107). Courts are repeatedly expected to decipher the words of the founding fathers. Varying decisions have left school leaders questioning allowable behavior in effort to determine which decisions apply to their specific situations from day-to-day.

The First Amendment was the first article to impact a school leader. Issues dealing with free speech, assembly, and religious expression are now a consistent aspect of the life of a school leader (p. 108). School leaders are faced with the dilemma of determining when to get involved in such issues. Supreme Court decisions shaped student expression of the Pledge of Allegiance, school prayer, and Bible readings on school premises by declaring violations of the First Amendment. Student expression must not be disruptive to school activities. Court decisions such as *West Virginia State Board of Education v. Barnette* (1943) and *Tinker vs. Des Moines Independent School District* (1969) supported non-disruptive student expression and led to the rise of the rights of students in public school activities.

The Fourth Amendment is viewed as the most sensitive of the “Big Three.” Searches and seizure involving lockers, backpacks, cars, or person is implemented with extreme caution. The Fourth Amendment was designed to protect American citizens from unreasonable search and seizure when there is a lack of probable cause. However, government must hold the right to enforce laws just as schools must hold the right to enforce rules and policy. Therefore, “the right to privacy is not absolute, it is relative.” Supreme Court cases, such as *New Jersey v. T.L.O.* (1985), deemed that “schools were special environments where school officials have the duty and responsibility for the safety, health, and learning of children.” Schools have increased duty and responsibility allowing schools to conduct searches that would be considered illegal in other settings. Students have no reasonable expectation of privacy on school property. School officials are held to the standard of reasonable suspicion instead of the standard of probable cause enforced by other authorities. In determining whether a search is legal or warranted, school officials must answer two basic questions:

1. Was the search justified at its inception; that is, was there reasonable suspicion that something was going on?
2. Was the search reasonable in scope; was the search more intrusive than it had to be?

(Davis, 2006, p. 110)

If school officials violate the reasonable boundaries outlined by the courts they may be held liable for an illegal search, preventing evidence from being used.

The Fourteenth Amendment includes three sections, the last two being more essential for school administrators:

- No state shall deprive any person of life, liberty, or property without due process of law.
- No state shall deny to any person within its jurisdiction the equal protection of the laws. (Davis, 2006, p. 107)

It includes a broad spectrum and encompasses the rights of both teachers and students. Issues such as continued employment, property rights, and student attendance all fall under this realm. School leaders are expected to be reasonable, fair, and logical when dealing with issues involving discipline or sanctions. Teacher tenure is delineated from teacher property interest rights and is recognized in most states. Employment is considered a property right and due process procedures must be enforced to deny a tenured teacher continued employment. Due process is also extended to students in cases of attendance and suspensions. The case *Goss v. Lopez* (1975) determined that students must be notified of a suspension and provided a hearing within a reasonable timeframe (Davis, 2006, p. 111).

Litigation Implications for Educators

The very nature of the teaching profession exposes teachers to potential civil liabilities. The lack of legal knowledge and responsibility often inadvertently leave teachers on the

opposing side of the law. In a society with increasing litigation, it is imperative for teachers to be knowledgeable of educational law.

Teachers are required to uphold “law and order” in the classroom environment for an effective teaching and learning experience to exist. The Education Act provides teachers with the right and ability to punish students for misbehavior, to allow for the meeting of school objectives. Teachers are expected to perform bits and pieces of multiple jobs: social worker/counselor, lawyer, doctor, police, and court magistrate. Teachers perform these duties without any formal training in the various areas or legal implications for the increasing demands (Moswela, 2008, p. 93). “Ignorance of the law” is not an excuse. The presumption is that teachers know the law and are responsible for violations (Moswela, 2008, p. 94).

The majority of cases regarding student discipline result from procedures involving punishment, predominantly corporal punishment. In some cultures, corporal punishment is the most preferred type of punishment. “Spare the rod and spoil the child” is a very popular long-standing saying. It is believed to build character and responsibility in the individual and reinforce morals and values in certain societies. In addition, it is less time consuming than many other types of punishment and leaves more time for the teaching and learning process to progress. However, this type of punishment yields a high percentage of student discipline court cases (Moswela, 2008, p. 102). Therefore, as Moswela argued, it is imperative for teachers and administrators to be knowledgeable of educational law and the multiple benefits for school employees:

- More confidence and freedom by teachers in disciplining the students as they will be more familiar with correct procedures.
- Teachers would relate knowledge on educational law to their professional lives.
- With information and knowledge on educational law, teachers would be more cautious in their dealing with students and minimize the legal pitfalls the sometimes go through and which pitfalls beset their practice particularly in high-risk subjects.

- Action can expose the teacher, the school or employer to legal embarrassment can be avoided.
- Student-teacher relationships would be enhanced if the teachers are seen to be fairly and impartial by the students. Their actions would reflect them as parents and students would see them as such (the *in loco parentis* and responsible parent notions). (Moswela, 2008, p 104)

Top Legal Issues in Education

According to a survey completed by the *American School Board Journal* and the National School Boards Association Council of School Attorneys, student discipline is ranked as the third “top and potentially most litigious concern for many school districts” on the top 10 list of legal issues in K-12 public education (Stover, 2009).

The K-12 top 10 legal issues in education between 1995 and 2008 include the following:

1. Employee discrimination or termination
2. Finance adequacy and equity issues
3. Student discipline
4. Collective bargaining
5. Employment issues related to changes in the Americans with disabilities Act and the Family Medical Leave Act
6. Private placement issues related to special education
7. Disputes regarding attorney fees in special education cases
8. Free Speech
9. Educator sexual misconduct
10. No Child Left Behind Act interventions. (Stover, 2009, p. 17)

School leaders struggle in dealing with the compliance of the growing laws and regulations in public education. Schools are commonly being impacted on varying fronts by an increasing number of court cases. Student discipline is only one of a myriad of legal issues facing school leaders (Stover, 2009, p. 17). Unfortunately, parents appear to be more concerned with protecting their children from disciplinary action than improving their behavior.

Instead of parents focusing on improving student behavior, enforcing moral limitations, and teaching their children to take responsibility for their actions, parents are more interested in procedures and filing complaints to prevent their children from being disciplined.

Discipline issues are very time consuming and the increased volume affects instructional time. One disciplinary challenge that often occurs for school leaders is free speech versus students' rights. In 2006, the U.S. Supreme court ruled that student rights do not supersede unacceptable speech and disciplinary actions for such behaviors in the "Bong Hits 4 Jesus" case of *Morse v. Frederick* (2007). Schools have the discretion to take steps to safeguard speech that can be regarded as encouraging illegal drug use, according to *Hazelwood* (1988).

Schools are now faced with the challenge of enforcing policies and procedures that support preventive measures. As a defensive strategy to issues involving student dress, disrespectful behaviors, inappropriate language, and various acts of violence, increased measures for a more procedural environment are being implemented. For example, a New York City school district published a student discipline manual consisting of 32 pages. The manual included inappropriate behaviors, due process procedures, and outlined potential consequences.

Attorneys have expressed that student discipline issues have become a dynamic area of education law. Student discipline issues in education law are considered to be a moving target. Over the years, discipline issues have ranged in a broad spectrum from rebellious hair length in the 1960s, beepers and pagers in the 1990s, to present day social media and cyber-bullying (Stover, 2009, p. 19).

Due to increasing litigation, The Education Law Center in New Jersey developed a Student Discipline Rights and Procedures manual (Boylan, 2004, p. 3). The law center deals with many types of cases including school discipline and other student rights violations. The manual

was created to provide assistance to parents or advocates of students involved in disciplinary cases. Policy and law should be fair and effective with a balanced approach. It must balance the constitutional rights of students to a public education as well as the right to an orderly and safe learning atmosphere (Boylan, 2004, p. 3).

The most state constitutions guarantee children the right to a thorough and competent public education. This right is clearly impacted by the enforcement of school suspensions and expulsions. While some areas of student discipline are governed by state and federal statutes, they lack comprehensiveness. School leaders have the authority to suspend and expel in general terms. However, specific state regulations only cover disciplinary procedures for special education students and students violating firearm and weapon policies (Boylan, 2004, p. 4).

Schools are expected to utilize preventive measure to avoid school violations and inappropriate behavior. Schools must first identify the causes of student misbehavior. Causes of inappropriate behavior may vary from the lack of a challenge, peer conflicts, emotional issues, to a stressful home environment. Corrective remediation and intervention strategies often assist in diluting the inappropriate behavior before a suspension or expulsion is warranted. Therefore, teachers need professional development opportunities to provide them with the skills to effectively manage their classrooms and reduce inappropriate behavior (Boylan, 2004, p. 4).

Students may face suspension or expulsion for “good cause,” according to New Jersey statute. As stated in the manual, “good cause” includes but is not limited to following items of conduct:

- Continued and willful disobedience
- Open defiance of authority
- Stealing
- Damaging school property
- Occupying or causing others to occupy the school building without permission causing other students to skip school

- Possessing, using or being under the influence of illegal drugs or alcohol in the school building or on school grounds
- Trying to injure another student, a teacher, someone who works for the school, or a school board member
- Conviction or adjudication of delinquency for possession of a gun, or committing a crime while armed with a gun, on school property, on a school bus, or at a school function
- Knowingly possessing a gun while on school property, on a school bus, or at a school function. (Boylan, 2004, p. 5)

This list does not cover all behaviors that call for removal due to good cause. Suspensions and expulsions are often enforced due to reasons that are not listed as sufficient grounds. Any act that may be detrimental to a safe and orderly environment may be subjected to punishment (Boylan, 2004, p. 6).

The purpose of this review is to provide a general overview of schools and discipline. Through historical perspectives of student discipline and misconduct, assist in the understanding of issues over time. The section on discipline strategies and approaches with litigation samples provide a background for understanding the analysis of the study. In addition, it assists educators in understanding the purpose of the case analysis included in this study.

CHAPTER III

METHODOLOGY

Introduction

The purpose of this research was to examine litigation involving student misconduct and discipline issues. This research highlighted trends involving student misconduct and increasing discipline measures in education. This study was intended to enhance knowledge of legal issues in schools concerning student misconduct and discipline.

The methodology utilized in this study was qualitative, descriptive, historical-based document analysis. Typically, qualitative research concentrates on identifying the frequency of various incidents or occurring phenomena (Davis & Parker, 1997, p. 64). Qualitative research strategies allow the researcher to analyze topics in depth with greater detail (Patton, 1990, p. 13). Qualitative research methods generate an abundance of in-depth information focusing on a smaller group of subjects or cases. In addition, this method allows for greater comprehension of the situations and cases examined while reducing generalizability (Patton, 1990, 14).

Descriptive research provides descriptions of data and explains them. This type of research is obtained from a variety of documents. These documents include educational and legal journals, text, and case briefings to explain phenomena in legal issues and determine guidelines for educators dealing with student misconduct and discipline. Descriptive research focuses on attaining and explaining “descriptive data on conditions as they exist” (Davis & Parker, 1997, p. 68).

Historical-based research is a useful tool for professional educators. The purpose of historical-based research is to examine past events with the intent of improving current and future issues. It is an interpretation of past events communicated through multiple points of view (Johnson & Christensen, 2008). Berg (1998) identified five areas of significance for conducting historical based research:

1. To uncover the unknown
2. To answer questions
3. To identify the relationship that the past has to the present
4. To record and evaluate the accomplishments of individuals, agencies, or institutions
5. To aid in our understanding of the culture in which we live. (Berg, 1998)

Completing historical-based research includes several overlapping steps:

1. Identify the topic, research problem, or question
2. Collect data or review literature
3. Evaluate materials
4. Data analysis
5. Preparation of narrative report. (Johnson, & Christensen, 2008).

Court cases related to student misconduct and discipline issues heard in the United States Supreme Court, United States Court of Appeals, the United States District Courts, State Supreme Courts, State Appellate Courts, and lower state courts were identified within this document. In order to develop an ample database to derive conclusions, a 30-year timeframe was established (1982-2011). Scholarly literature in the areas of student misconduct and discipline was utilized to validate and enhance comprehension of the topic, assisting the researcher in identifying the application of education issues, outcomes, and trends identified in the analyzed court cases.

Document analysis, a primary method of data collection, is focused on the review of documents. Documents serve as written records and are often primary sources providing first-hand information. Techniques involved provide a large amount of data for summarization and interpretation. The goal of document analysis is to determine patterns, explanations, and understandings. Data elements must be organized and synthesized to determine patterns and derive conclusions. A comprehensive analysis mandates three steps: data organization, data summarization, and data interpretation (McMillan, 2008, p. 283).

Document analysis includes studying excerpts, quotations, or entire passages from organization, clinical, or program records; memoranda and correspondence, official publications and reports; personal diaries; and open-ended written responses to questionnaires and surveys. The themes, patterns, understandings, and insights that emerge from fieldwork and subsequent analysis are the fruit of qualitative inquiry. (Patton, 1990, pp. 4-5)

Analyses of documents mentioned provide assistance in developing and comprehending patterns and themes in related legal issues, trends, and outcomes. This information provides guidelines that serve as a valuable tool for education faculty and administration.

Case briefing is a form of document analysis. Case briefs are primarily used as analytical summaries of opinions utilized to provide clarity of essential components. The process of briefing involves reading, analyzing, and breaking down the contents of the opinion into organized categories (Stastky & Wernet, 1995, pp. 39-42).

Research Design

As previously stated, the research design of this study was qualitative, descriptive, historical-based document analysis. Qualitative research includes findings that are not derived through statistical or quantifying strategies. These studies focus on meaning and understanding in natural situations (Glatthorn, 1998, p. 34). It is interpretive and describes situational activities

through the eyes of the observer (Denzin & Lincoln, 2005, p. 3). Qualitative research focuses on interpretation of phenomena and commonalities, an approach appropriate for education and legal research (Strauss & Corbin, 1998, p. 122). Such legal issues, trends, and outcomes in the area of student misconduct and discipline are essential phenomena that warrant investigation. Therefore, the goal of legal research in this area is to interpret phenomenon in a logical approach to assist educators.

Thus this type of research is also descriptive in nature. “The purpose of descriptive research is to describe phenomenon” (Glatthorn, 1998, p. 36). As a result, qualitative research studies are commonly aligned with descriptive research. Descriptive methodologies are necessary in describing ideas related to people, places, and things (Strauss & Corbin, 1998, p. 16), including complex social interactions and meanings that attribute to lived experiences (Marshall & Rossman, 1999, p. 2).

This qualitative research study was based on the review of case law. Court case documents were analyzed to determine relationships and interpret methods and develop concepts and theories to provide a structured knowledge base framework (Davis & Parker, 1997, p. 69). Litigation decisions of federal and state courts provide a primary source material foundation. Additional source materials were utilized to support documentation of case law examination. The time period from 1982 to 2011 was highlighted, providing a substantial amount of cases for review. Research materials utilized in this study include, without being limited to, the following items: federal and state court decisions, related scholarly literature, and legal texts pertaining to the outlined topic.

The reviews of court cases in this study examine litigation of student misconduct and discipline in schools. Court case decisions are made based on interpretation of laws and statutes.

Case interpretations vary depending on the analysis of the individual. The interpretation of court cases involving student misconduct and discipline assist in providing an understanding of issues, outcomes, trends, and potential guidelines in student misconduct. This process is referred to as case briefing, an in-depth analysis of litigation. The primary purpose is to produce a detailed description, increase understanding, and identify commonalities (McMillan, 2008, p. 288).

The review of literature included scholarly literature from legal and education journals and text. These items, education and legal journals, reporters, various text, and case briefs, were examined to facilitate a comprehensive analysis and derive trends, issues, outcomes, and possible guidelines for educators. In addition to scholarly literature, this research focused on state, federal, and supreme court cases identified in West's Law Education Digest. Identified cases were located in West's Law Education Reporter in conjunction with LexisNexis Academic and analyzed to provide information related to trends, issues, outcomes, and guidelines for educators in reference to student misconduct and discipline.

Research Questions

1. What issues regarding student misconduct and discipline in K-12 schools have been identified by federal courts in West's Education Law Digest Schools 169, Control of pupils and discipline in general between 1982 and 2011?
2. What outcomes have occurred in court cases involving student misconduct and discipline in K-12 schools?
3. What legal trends have developed through federal and state case law with regard to student misconduct and discipline?

4. What legal principles for school administrators can be discovered from court cases about student misconduct and discipline in K-12 schools?

Instrumentation

Data collection of this study was structured around and limited to state and federal court cases published in The West Education Law Digest and The West Education Law Reporter. A qualitative analysis of case material was identified, rules outlined in court decisions, trends in area of research, and key facts identified in related cases. Cases were identified by key number code/headnotes. The original criteria focused on higher education student misconduct and discipline issues and later expanded to enhance the scope of the study. Utilization of the West Education Law Digest Index assisted in identifying briefs under the headnote "Schools." The briefs under the key code numbers, including 169 Control of pupils and discipline in general, provide a comprehensive overview on school litigation issues. When conducting legal research, the primary data source consists of court cases. In qualitative legal analysis, court cases are treated as interviews. Additional reference resources were collected from text, education, and legal journals. Sources of data for this research study focused on state and federal court cases identified in West's Law Education Digest and located in West's Law Education Reporter and LexisNexis Academic. Utilizing West's Law Education Digest to identify cases assisted in outlining cases located in West's Law Education Reporter and LexisNexis Academic for analysis.

A digest is a set of volumes that contain small-paragraph summaries organized by key numbers. One uses the main digest volumes to locate court opinions summarized under that key number (Stastky & Wernet, 1995, p. 26).

The premise of this study was to examine student misconduct and discipline in schools. A vast array of cases was listed under Schools key code number 169 Control of pupils and discipline in general. The sample was streamlined from 214 court cases to focus on U.S. Supreme Court, Federal District Court, and Court of Appeals cases, which produced 115 cases for briefing analysis.

Production of Data: Case Briefs

Data were produced from court decisions, trends, issues, and key facts of student misconduct and discipline-related cases in schools. Cases were briefed by outlining the following: citations, key facts, issue, holdings, reasoning, and disposition. Production of data focused on case background, court outcomes, and supportive reasoning of decisions. Research focused on litigation in the area of school student misconduct and discipline offering institutional administrators insightful information to assist in carrying out the daily responsibilities involving student misconduct and discipline.

Case analysis encompasses the procedures used to determine the applicability of opinions (Stastky & Wernet, 1995, p. 7). The thumbnail brief format outlined by Stastky and Wernet (1995) was utilized for analysis. The following format was applied:

Citation--Identifying information that will enable you to find law, or material about the law, in a library.

Key Facts--A fact that is essential to the court's holding if that fact had been different or had not been the opinion.

Issue--A specific legal question that is ready for resolution.

Holding--The answer to the legal issue in an opinion; the result of the court's application of one or more rules of law to the facts of the dispute.

Reasoning--The explanation of why a court reached a particular holding for a particular issue.

Disposition--Whatever must happen in litigation as a result of the holdings that the court made in the opinion. (Stastky & Wernet, 1995, pp. 450-455)

Data Analysis

Qualitative perspectives place emphasis on phenomenological views deriving studies occurring in natural situations tend to focus on meaning and understanding (Glatthorn, 1998, p. 34). Qualitative studies are interpretive and grounded in actual human experiences (Marshall & Rossman, 1999, p. 2).

This means that qualitative researchers study things in their natural settings, attempting to make sense of, or interpret, phenomena in terms of the meanings people bring to them. Qualitative research involves the studied use and collection of a variety of empirical materials . . . that describe routine and problematic moments and meanings in individuals' lives. (Denzin & Lincoln, 2005, pp. 3-4)

“The first task in qualitative analysis is description” (Patton, 1990, p. 374) Common elements of descriptive analysis include the following: primary program activities, program goals, and outcome of program participants (Patton, 1990, p. 375).

Interpretation of data goes beyond basic descriptions. Interpretation involves “the attaching of significance to what was found, offering explanations, drawing conclusions, extrapolating lessons, making inferences, building linkages, attaching meanings, imposing order, and dealing with rival explanations (Patton, 1990, p. 423)

A case brief is the analyzed summary of a court opinion. Briefing a case identifies essential components and serves two specific functions:

- To assist in understanding the meaning of the opinion
- To provide an outlined summary for reference. (Stastky & Wernet, 1995, p. 39)

Case analysis was conducted to discover relevant opinions and recognize concepts that clarify the phenomena of specific issues, outcomes, and trends involving student misconduct and discipline.

Interpretive methods provide clarity and understanding of problems when they are not clearly defined or are difficult to measure (Davis & Parker, 1997, p. 69). The design of the judicial system addresses various relationships and variables that result in litigation. The interpretation of these relationships and variables lead to determining issues, trends outcomes, and guidelines to benefit educators with student misconduct and discipline issues. During data analysis, key facts and rules of law were identified in each case. In addition, the referencing of how the rules of law were applied to the key facts was crucial. The outlined issues of each case determined the appropriateness as related to the purpose of the research.

CHAPTER IV
CASE BRIEFS AND ANALYSIS

Introduction

The court cases selected for this study were derived from The West Education Law Reporter between the time period from 1982-2011. There were 118 cases involving the topics of student misconduct and discipline under topic descriptor “Schools 169, Control of pupils and discipline.”

The method utilized for the case analysis came from *Case Analysis and Fundamentals of Legal Writing* (Statsky & Wernet, 1995). The outline of the case analysis includes the following: citation, key facts, issues involved, court holdings, reasoning, and final disposition. The cases are presented chronologically and alphabetically. Conclusions derived from case analysis are presented in Chapter V.

Case Briefs

Citation: *Diggles v. Corsicana Independent School District*, 529 F.Supp. 169 (N.D. Tex. 1981).

Key Facts: Collins Middle School eight grader Candace Diggles was suspended after an altercation with a teacher. The principal recommended that the student’s suspension would be in effect for the remainder of the school year. The superintendent, Culwell, supported the decision contacted the parents, and scheduled a hearing. Superintendent Culwell upheld the suspension

and the defendant filed suit claiming violations of equal protection, due process, and discrimination.

Issue I: Was the defendant entitled to summary judgment based on meeting qualified immunity standards in regard to claims of violations of equal protection, due process, and discrimination?

Holding I: The United States District Court for the Northern District of Texas, Dallas Division stated the actions met the reasonableness standard for qualified immunity and the plaintiff was entitled to summary judgment.

Reasoning I: The student's claims of procedural and due process violations were not substantiated. Diggles' suspension from Collins Middle School received more than adequate procedural protection. *Williams v. Dade County School Board* (1971) requires that a suspension over 10 days is a serious punishment and requires increased procedural safeguards. Qualified immunity provides protection for government authorities sued for individual capacities of conduct. The defendants must establish that they are working within the scope of discretionary authority. Then, the burden falls to the plaintiff to prove that the defendants' actions were in bad faith or outside their scope of authority as established in *Harlow v. Fitzgerald* (1982). The plaintiff, Diggles, failed to produce evidence to support that her rights were violated. The court reviewed the case and found no evidence of discrimination intent and determined that the defendant was protected by qualified immunity and granted summary judgment.

Disposition: The United States District Court for the Northern District of Texas, Dallas Division granted summary judgment for the defendants.

Citation: *Dodd v. Rambis*, 535 F.Supp. 23 (S.D. Ind. 1981).

Key Facts: An incident occurred at Brazil Senior High School where several students staged a walk out. The students were protesting school regulations dealing with smoking and attendance. The students participating in the walk out were suspended from 1 to 3 days. Some of the students organized that weekend and prepared leaflets to distribute at school. Five students were involved in distributing materials to encourage fellow students to support their rights with another walk out. The principal suspended the students for 3 days for participating in activities forbidden in the student handbook pending further proceedings. At the hearing, the students were expelled for the remainder of the school year. The students filed an injunction to reinstate their student status due to violations of their First and Fourteenth Amendment rights.

Issue I: Did the school system violate the students' constitutional rights in disciplining the students?

Holding I: The United States District Court for the Southern District of Indiana, Evansville Division, held that the school officials were reasonable and justified in expelling the students.

Reasoning I: The district court held that the students' actions were protected by the First Amendment. However, states interest in maintaining and cultivating the educational environment is required. The court applied *Tinker* in determining whether the students' expression interfered with school operations. The students' actions led to disturbances and disruptions. Therefore, school officials were justified in expelling the students for their actions.

Disposition: The United States District Court for the Southern District of Indiana, Evansville Division, held that the school officials were reasonable and justified in expelling the students and denied the students' injunction.

Citation: *Stern v. New Haven Community Schools*, 529 F.Supp. 31 (E.D. Mich. 1981).

Key Facts: Stern, a tenth grade student at New Haven High School, was observed through a two-way mirror purchasing marijuana. The students were asked to report to the principal's office and were reported to authorities. Stern's parents were notified and he was suspended for the remainder of the semester. After the hearing, an article appeared in the paper identifying Stern and describing the incident.

Issue I: Was the school entitled to summary judgment based on qualified immunity standards in regard to Stern's claims of Fourth Amendment right violations?

Holding I: The United States District Court for the Eastern District of Michigan, Southern Division, held that the school did not violate Stern's Fourth amendment rights.

Reasoning I: Qualified immunity provides protection for government authorities sued for individual capacities of conduct. The defendant must establish that they are working within the scope of discretionary authority. Then, the burden falls to the plaintiff to prove that the defendant's actions were in bad faith or outside their scope of authority, as established in *Harlow v. Fitzgerald* (1982). The plaintiff, Stern, failed to produce evidence to support that his rights were violated. The court reviewed the case and found that privacy claims were not cognizable and the limited view in the boy's restroom through the two-way mirror did not violate Stern's Fourth Amendment rights as summarized in *Zamora v. Pomeroy* (1981). The defendant's actions were reasonable and were protected by qualified immunity and granted summary judgment.

Disposition: The United States District Court for the Eastern District of Michigan, Southern Division, granted the school's motion for summary judgment.

Citation: *Boynton v. Casey*, 543 F.Supp. 995 (D. Me. 1982).

Key Facts: Mattanawcook Academy student Daniel Boynton was suspected of using marijuana on the school premises. Boynton was questioned by the school principal concerning

his conduct. Boynton was immediately suspended after admitting using marijuana on the school premises. He was later expelled by the school committee without a specified reason. Boynton filed a suit against the school officials claiming denial of due process.

Issue I: Did school officials violate Boynton's constitutional rights by questioning him without notifying him of his rights?

Holding I: The United States District Court for the District of Maine held that school officials were within their authority in questioning the student regarding his conduct?

Reasoning I: The court found that Boynton, was provided with proper notification of his infraction and allowed to be heard. Boynton was unable to provide supportive evidence of violations of due process under the Fourth Amendment. In addition, the Miranda rule was not extended to school officials during interrogations (*Miranda v. Arizona*, 1966). The court found that it was not improper to gain a confession by questioning the student and disciplining the student based on that confession.

Disposition: The United States District Court for the District of Maine granted the school's motion for dismissal.

Citation: *Horton v. Goose Creek Independent School District*, 690 F.2d 470 (Tex. Ct. App. 1982).

Key Facts: The Goose Creek Consolidated Independent School District adopted a canine drug detection program in response to growing alcohol and drug abuse in the schools. The program involved canines sniffing students and their property. Three students who were searched with no incriminating evidence filed a suit claiming the program violated their Fourth Amendment rights.

Issue I: Did the school district's drug protection program violate student's constitutional rights?

Holding I: The United States Court of Appeals for the Fifth Circuit affirmed in part and reversed in part.

Reasoning I: The United States Court of Appeals for the Fifth Circuit reviewed the district court's decision involving the canine drug detection program. The district court held that the drug detection program did not violate student's constitutional rights. The court of appeals determined that the sniffing of cars and lockers did not constitute a search under the Fourth Amendment due to the objects being located in public places. However, the actual sniffing of students did constitute a search and was highly offensive and intrusive. The court held that the physical presence of supervised dogs was not a violation of due process as decided in *Zamora v. Pomeroy* (1981). The primary concern of the Fourth Amendment is reasonableness, reasonableness is determined based on the circumstances. School administrators are responsible for maintaining an educational environment.

Disposition: The United States Court of Appeals for the Fifth Circuit affirmed in part and reversed in part the district court's judgment.

Citation: *Bernstein v. Menard*, 557 F.Supp. 90 (E.D. Va. 1984).

Key Facts: Bernstein, a band student at J.R. Tucker High School quit the band after being disciplined by the band director. The student refused to follow the directions of the section leader. The incident led to a dispute with band director, Menard. The band director sent the student home and was not allowed to dress out for the upcoming game. His punishment was suspended awaiting appeal made to administrators. After Bernstein's mother refused to allow

him to participate in the Florida trip, he was dismissed from the band. Bernstein filed suit alleging violations of his civil rights.

Issue I: Did the district court properly grant the school's motion to dismiss claims alleging violation of civil rights?

Holding I: The United States Court of Appeals for the Fourth Circuit held that the district court did not abuse its discretion in awarding fees, and their judgment was final.

Reasoning I: In December of 1982, the district court granted the defendant's motion to dismiss and awarded attorneys' fees based on the plaintiff's suit being vexatious and frivolous. Bernstein filed his appeal in March of 1983. Appeals must be filed within 30 days of the final judgment ending litigation.

Disposition: The United States Court of Appeals for the Fourth Circuit dismissed Bernstein's appeal due to untimely filing and affirmed the awarding of attorney fees.

Citation: *Pollnow v. Glennon*, 594 F.Supp. 220 (S.D.N.Y. 1984).

Key Facts: A Millbrook High School student, Otto Pollnow, was arrested and charged with assaulting the mother of a friend. The principal questioned Pollnow and suspended him for 5 days. Pollnow's parents were informed but they stated they would not participate in a hearing while his charges were still pending. At the hearing, Pollnow was suspended for the remainder of the current school year and the first semester of the upcoming school year. Pollnow filed a suit seeking damages for wrongful suspension.

Issue I: Were the defendants, Millbrook High School officials, entitled to qualified immunity?

Holding I: The United States District Court for the Southern District of New York held that government officials are shielded from civil damages when performing discretionary functions.

Reasoning I: Qualified immunity provides protection for government authorities sued for individual capacities of conduct. The defendants must establish that they are working within the scope of discretionary authority. The court reviewed the case and found that the defendants were reasonable in not immediately reinstating Pollnow and they were protected by qualified immunity. Government officials are shielded from civil damage liabilities when performing discretionary functions (*Wood v. Strickland*, 1975).

Disposition: The United States District Court for the Southern District of New York granted the defendant's motion for summary judgment.

Citation: *Tarter v. Raybuck*, 742 F.2d 977 (Cal. Ct. App. 1984).

Key Facts: Cuyahoga Falls High School student David Tarter was suspended for 10 days based on observations of marijuana usage/possession. Tarter was in a designated smoking area near the school parking lot that was under surveillance by school officials. The area was being observed due to previous reports of drug use and vandalism. Officials observed students smoking and an exchange between Tarter and Cosner that was believed to be marijuana. School officials brought the students in the building for questioning and contacted the authorities. Tarter was searched and an odor of marijuana was detected. However, no evidence was found. Tarter was informed that he would be suspended and the principal left to contact his parents. Tarter was later expelled for the remainder of the semester. Tarter filed suit claiming school officials violated his constitutional rights. The judgment of The United States District Court for the Northern District of Ohio was in favor of the defendants. As a result, Tarter filed an appeal.

Issue I: Did the district court err in holding the search of a student, Tarter, as not unconstitutional?

Holding I: The United States Court of Appeals for the Sixth Circuit held the district court's judgment that the defendant's actions were reasonable and were not unconstitutional.

Reasoning I: School officials did not violate Tarter's Fourth Amendment rights by conducting the search. The court found that Tarter consented to the search at the request of school officials. There was reasonable cause for the search and it was not unconstitutional (*Horton v. Goose Creek*, 1982).

Disposition: The United States Court of Appeals for the Sixth Circuit affirmed the district court's judgment that the defendant's actions were reasonable and were not unconstitutional.

Citation: *Martens by and Through Martens v. District No. 220, Board Of Education*, 620 F.Supp. 29 (N.D. Ill. 1985).

Key Facts: The administrator of Reavis High School, Joan Baukus, was contacted by an anonymous caller regarding two students possessing and distributing marijuana. The caller stated that her daughter purchased marijuana from Michael Martens. She also stated that Martens kept drug paraphernalia in his coat lining and might currently have it in his possession. Baukus called Martens to the office and informed him of the information she received. Martens denied the allegations and refused to be searched until his parents were contacted. Baukus was unsuccessful in reaching Martens parents. A Cook County deputy was in the office and suggested to Martens that it would be best if he cooperated. Martens consented to the search and a pipe with marijuana residue was in his possession. Martens was suspended pending a hearing. At the hearing, the Board expelled Martens for the remainder of the year. Martens filed suit claiming violation of his Fourth Amendment rights.

Issue I: Did the school officials violate Martens Fourth Amendment rights?

Holding I: The United States District Court for the Northern District of Illinois, Eastern Division, held that the search of Marten was reasonable and did not violate his constitutional rights.

Reasoning I: The Fourth Amendment does not require school officials to obtain a warrant before implementing a student search. The scope of the search must be reasonable and related to the circumstances that prompted the search. The court determined that the anonymous tip did provide the school officials with reasonable suspicion. In applying the totality-of-circumstances test in *Illinois v. Gates* (1983), the anonymous tip adequately satisfied standards. School officials are responsible for maintaining an educational environment. The student's Fourth Amendment rights are limited to preserve order in schools and maintain a proper educational environment as established in *New Jersey v. T.L.O.* (1985).

Disposition: The United States District Court for the Northern District of Illinois, Eastern Division, granted the defendant's motion for summary judgment.

Citation: *New Jersey v. T.L.O.*, 105 S. Ct. 733 (U.S. 1985).

Key Facts: A Piscataway High School freshman, T.L.O., was found smoking in the restroom by a teacher and was taken to the principal's office. T.L.O. was questioned and denied that she was smoking on campus. The vice principal demanded to search the students purse. T.L.O. was in possession of cigarettes, rolling papers, marijuana, a pipe, plastic bags, a large quantity of one-dollar bills, letters indicating she was dealing marijuana, and a list of students with debts. The incident was reported to the juvenile court and found to be delinquent. T.L.O. received a sentence of 1 year of probation. The Appellate affirmed that school officials did not violate the student's constitutional rights and vacated delinquency. The Supreme Court of New

Jersey reversed the judgment of the Appellate Court based on suppression of evidence and held that the search was not reasonable. On appeal, The United States Supreme Court reversed based on the reasonableness standard and held that school officials are not required to attain a warrant before conducting a search.

Issue I: Did the search of T.L.O.'s purse violate her Fourth Amendment rights?

Holding I: The United States Supreme Court held that school officials are not required to obtain a warrant before conducting a search and that the search met the reasonableness standard.

Reasoning I: The United States Supreme Court applied the reasonableness standard and held that school officials are not required to attain a warrant before conducting a search as supported in *Tarter v. Raybuck* (1984). The primary concern of the Fourth Amendment is reasonableness; reasonableness is determined based on the circumstances. School administrators are responsible for maintaining an educational environment. School officials are permitted to search students within reason if the scope of the search is related to the objectives.

Disposition: The United States Supreme Court reversed the opinion of the Supreme Court of New Jersey.

Citation: *Doe by Gonzales v. Maher*, 793 F.2d 1470 (Cal. Ct. App. 1986).

Key Facts: John Doe, an emotionally disturbed child at Louise Lombard School, occasionally displayed aggressive tendencies. His condition deemed him handicapped by standards of the Education for All Handicapped Children Act (EAHCA) and Section 504 of the Rehabilitation Act. After an incident where Doe assaulted another student and broke a window, he was suspended for 5 days. Principal Caruso met with Doe's mother regarding the suspension and recommended expulsion to the Student Placement Committee (SPC). Doe's counsel objected that the procedures were in violation of EAHCA and asked that the expulsion hearing be

cancelled and replaced with a meeting of the IEP team. The school system agreed to cancel the expulsion proceedings.

Jack Smith, handicapped student at A.P. Giannini School, displayed similar characteristics as Doe with aggressive behavior. After several incidents of misbehavior, Smith was reduced to a half-day program. Smith's grandparents were unaware of their rights and agreed with the classroom reduction. Smith was involved in another incident making sexual comment to several female classmates. He was suspended for 5 days and recommended to SPC for expulsion. Smith's suspension, same as Doe's, was continued pending resolution. Smith's counsel petitioned to intervene when he became aware of Doe's case. The United States District Court for the Northern District of California found in favor of the plaintiff and granted partial summary judgment. The defendants filed an appeal.

Issue I: Were the defendants' entitled to damages under due process claims?

Holding I: The United States Court of Appeals for the Ninth Circuit held that due process claims related to the Education for All Handicapped Children Act lacked the constitutional basis necessary for cause of action under the civil rights act.

Reasoning I: The court affirmed the district court's denial of attorney's fees. They found that the claim was based on the Education for All Handicapped Children Act and was not based on a violation of civil rights. They failed to provide basis of relief entitling attorneys' fees. They sighted that due process claims related to the Education for All Handicapped Children Act lacked the constitutional basis necessary for cause of action under the civil rights act (*Smith v. Robinson*, 1984).

Disposition: The United States Court of Appeals for the Ninth Circuit affirmed in part and reversed in part.

Citation: *Crosby by Crosby v. Holsinger*, 852 F.2d 801 (Va. Ct. App. 1988).

Key Facts: A cartoon figure of Johnny Reb was displayed as the Fairfax High School Rebels symbol. Several minority students and parents complained about the illustration. The Minority Achievement Task Force suggested that the symbol be removed. The principal removed the symbol and had students select a new symbol that was not related to the Confederacy. Students protested by attending school board meetings, petitioning, forming rallies, and displaying blue ribbons. Students filed suit claiming violations of First Amendment rights.

Issue I: Did the principal violate the students' First Amendment rights by removing the symbol?

Holding I: The United States Court of Appeals, Fourth Circuit, held that the principal was acting in good faith and his actions did not violate students' constitutional rights.

Reasoning I: The courts held that schools have the discretion to disassociate from inappropriate or offensive materials. The principal's decision to remove the cartoon was in good faith and justified. School officials are not required to promote all student speech as supported in *Hazelwood School District v. Kuhlmeier* (1988).

Disposition: The United States Court of Appeals, Fourth Circuit affirmed the district court's judgment.

Citation: *Hazelwood School District v. Kuhlmeier*, 108 S. Ct. 562 (U.S. 1988).

Key Facts: A school newspaper was produced by a journalism class under faculty supervision. It was required that all contents be reviewed by the principal before production. The principal was concerned about the contents of two articles. One article dealt with the pregnancies of three students. The article did not protect the anonymity of the students. In addition, it referenced sexual activity and birth control that was inappropriate for younger students. The

second article dealt with the impact of divorce on students and included some critical comments regarding a parent. The principal instructed the advisor to pull the two pages containing the articles from publication. Members of the newspaper staff filed a suit claiming violation of their First Amendment rights. The District Court held that the principal's actions were reasonable. The Court of Appeals reversed holding that the newspaper was a public forum.

Issue I: Did the principal violate the student's First Amendment Rights by suppressing pages in the newspaper?

Holding I: The Supreme Court to the United States reversed the appellate court's judgment in favor of the principal.

Reasoning I: The Court held that the newspaper was not a public forum for expression and educators are entitled to a standard of control. *Tinker v. Des Moines Independent Community School District* (1969) articulated that an educator exercising editorial control does not offend the First Amendment. The principal acted reasonably in censoring the content of student expression in a school sponsored activity.

Disposition: The Supreme Court to the United States reversed the appellate court's judgment.

Citation: *Edwards for and in Behalf of Edwards v. Rees and Davis County School District*, 883 F.2d 882 (Utah Ct. App. 1989).

Key Facts: Davis High School student Craig Edwards was removed from class to be questioned concerning a bomb threat. Edwards was questioned by Dale Rees, vice principal at Farmington Junior High School where the threat was received. Edwards later filed suit against Rees and the school district for violating his Fourth, Fifth, and Fourteenth Amendment rights. The district court held that Edwards was not deprived of his constitutional rights.

Issue I: Was the principal entitled to summary judgment based on Edward's claims of violation of constitutional rights?

Holding I: The United States Court of Appeals, Tenth Circuit, held the judgment of the district court and granted the principal summary judgment.

Reasoning I: Qualified immunity provides protection for government authorities sued for individual capacities of conduct. The defendants must establish that they are working within the scope of discretionary authority. The court reasoned that the principal's actions were justified. Edwards was implicated and suspected of committing a serious offense. Questioning Edwards was reasonable and he was not deprived of his constitutional rights. Edwards failed to provide sufficient evidence to support his claims.

Disposition: The United States Court of Appeals, Tenth Circuit affirmed the judgment of the district court.

Citation: *Garrett By & Through Smith v. Renton School District No. 403*, 874 F.2d 608 (Wash. Ct. App. 1989).

Key Facts: Garrett and other members of a Lindbergh High School religious group filed suit against the district. The student group was requesting to use school facilities before the beginning of each school day for prayer and Bible meetings. The district allowed approved student groups to use facilities during non-instructional time for co-curricular activities. The school district denied the request based on the group not being related to the curriculum and supporting the group activities would violate the Establishment Clause.

Issue I: Did the school district violate the students' First Amendment and Equal Access Act by denying their religious club use of school facilities?

Holding I: The United States Court of Appeals, Ninth Circuit, held that the school district did not violate the rights of the student group.

Reasoning I: The court found in favor of the school district upholding that the activities would be considered as advancing religion. Such activities would be in violation of the Establishment Clause of the First Amendment resulting in an unconstitutional entanglement of religion and government, as supported in *Edwards v. Aguillard* (1987).

Disposition: The United States Court of Appeals, Ninth Circuit, affirmed the judgment of the district court.

Citation: *Poling v. Murphy*, 872 F.2d 757 (Tenn. Ct. App. 1989).

Key Facts: Unicoi County High School student, Dean Poling, was a candidate for class president. Poling's election speech included some derogatory comments concerning the assistant principal and other school administration. School officials regarded the content of his speech as inappropriate and declared him ineligible to run for the position of class president. Poling filed suit claiming violations of his First and Fourteenth Amendment rights?

Issue I: Did the actions of the school officials violate the rights of Poling?

Holding I: The United States Court of Appeals, Sixth Circuit, found that the school officials had the right to restrict student speech and held the judgment of the district court.

Reasoning I: The court reasoned that the school officials had the right to restrict speech during school activities or assemblies. Poling was not able to provide any supportive evidence of deprivation of life, liberty, or property. Applying *Hazelwood* (1988), the court held that school officials do not offend the First Amendment by exercising control over expressive activities.

Disposition: The United States Court of Appeals, Sixth Circuit, affirmed the judgment of the district court.

Citation: *Rivera v. East Otero School District R-1*, 721 F.2d 1189 (D. Colo. 1989).

Key Facts: La Junta High School students were suspended for distributing unauthorized materials on school premises. Students, Chavira and Taylor, violated school policy by distributing, *Issues and Answers*, a non-student newspaper published by Student Action for Christ, Inc. The students filed a suit claiming First and Fourteenth Amendment violations.

Issue I: Did the district's policy violate the student's constitutional rights?

Holding I: The United States District Court for the District of Colorado held that the school district's policy was unconstitutional and granted the plaintiffs summary judgment.

Reasoning I: The court determined that the school district's policy violated the students' right to free speech and was unconstitutional. The Court acknowledged *Tinker* (1969) in upholding that the pure speech of students is protected by the constitution.

Disposition: The United States District Court for the District of Colorado granted the motion of summary judgment in favor of the students.

Citation: *Carey of Behalf of Carey v. Maine School Administrative District No. 17*, 754 F. Supp. 906(D. Me. 1990).

Key Facts: Traumatic early childhood experiences caused Craig Carey to have reoccurring emotional problems. Carey's disorder manifested with temper tantrums, manipulating peers, outrageous fantasizing and storytelling, and negative attention seeking. Carey reportedly took a semi-automatic handgun to a basketball game and made jokes about shooting people. Carey and his mother were called to the principal's office. Carey admitted to taking his father's gun to school. He was suspended for 10 days pending an expulsion hearing.

Issue I: Did the school violate Craig Carey's rights by enforcing suspension and expulsion?

Holding I: The United States Court for the District of Maine held that Carey's rights were not violated by school officials and granted the school's motion to dismiss.

Reasoning I: The court reasoned that Carey's rights were not violated by the school's actions. Procedural rights were recognized and followed. The parents spoke at the expulsion hearing upholding due process. All mandates were followed and no violations of EAHCA or Rehabilitation Act of 1973 were supported.

Disposition: The United States Court for the District of Maine granted the school's motion to dismiss.

Citation: *Salazar v. Luty*, 761 F. Supp. 45 (S.D. Tex. 1996).

Key Facts: High school student, James Salazar, was questioned for violating the school district's drug policy. Salazar was accused of selling drugs to another student. He was suspended until the end of the school year and referred to a disciplinary facility, the Pasadena School's Community Guidance Center. His parents appealed the suspension and the suspension was decreased from 60 to 60 days. Salazar filed suit claiming constitutional violations.

Issue I: Did Salazar's interrogation violate his Fourth, Fifth, Sixth, and Fourteenth Amendment rights?

Holding I: The United States District Court for the Southern District of Texas held that Salazar's rights were not violated by the school district.

Reasoning I: The court determined that Salazar was extended proper due process under the Fourteenth Amendment. The district's rules were rational and the enforcement process was adequate. No criminal charges were filed against Salazar.

Disposition: The United States District Court for the Southern District of Texas decided that Salazar would take nothing from the defendants in his action to challenge Discipline.

Citation: *Alabama and Coushatta Tribes of Texas v. Trustees of Big Sandy Independent School District*, 817 F. Supp. 1319 (E.D. Tex. 1993).

Key Facts: The Big Sandy Independent School District enforced a dress code that restricted hair length of male students. Native American students in the school district were in violation of the dress code. The students were placed in detention and told they must cut their hair to return to school. The students were members of the Alabama Coushatta Tribe, which views long hair as religious significance. The students filed a suit claiming violation of constitutional rights and requested an injunction.

Issue I: Did the district's dress code policy violate the student's constitutional rights?

Holding I: The United States Court for the Eastern District of Texas, Lufkin Division held that the district's policy violated the students' first amendment rights.

Reasoning I: The court found the school district to be in violation of the students' constitutional rights. Native American student hair length is a protected expressive activity that does not disrupt or interfere with the lives of other students. The plaintiffs were able to establish that they held a sincere religious belief protected by the First Amendment, as upheld in *United States v. Ballard* (1994).

Disposition: The United States Court for the Eastern District of Texas, Lufkin Division, granted the plaintiffs' request for an injunction.

Citation: *Jeglin by and Through Jeglin v. San Jacinto Unified School District*, 827 F. Supp. 1459 (C.D. Cal. 1993).

Key Facts: The San Jacinto Unified School District enforced a dress code policy that restricted clothing with writing or pictures representing any professional or college sports affiliation. Several students were found in violation of the dress code and told additional

violations would result in suspension. Plaintiffs filed a complaint for deprivation and denial of constitutional rights.

Issue I: Did the district dress code policy violate the students' First Amendment rights?

Holding I: The United States District Court for the Central District of California held that the defendant was unable to provide proof of violation claim.

Reasoning I: School officials provided sufficient justification for their actions in disciplining students for the use of free speech. Tinker supported that the public school students have the right to free speech. Clothing that supports a college or professional team is included as expressive speech. The purpose of the dress code is to protect the educational environment without substantial disruption. The school district offered little to no actual proof of gang activity or threatened disruption for the elementary and middle school populations. However, the high school population did display disruptive behavior and gang activity. The court found that the school system was able to provide proof of disruptive activity in the high school setting resulting in the curtailment of First Amendment rights.

Disposition: The United States District Court for the Central District of California granted injunctive relief against the school board in regard to elementary and middle school and denied with regard to the high school.

Citation: *Wiemerslage through Wiemerslage v. Maine Tp. H.S. Dist. 207*, 824 F. Supp. 136 (N.D. Ill. 1993).

Key Facts: A Maine Township High School student, Kurt Wiemerslage, was suspended for loitering outside a school entrance. Wiemerslage congregated with friends on the sidewalk, off school grounds, waiting for friends to join them. The school has a policy against lingering and loitering in specific areas. This was a common specified area. An officer reported the

students for violating school policy and Wiemerslage was suspended for 3 days. He filed suit claiming First and Fourth Amendment rights violations.

Issue I: Did the school's loitering rule violate the student's constitutional rights?

Holding I: The United States District Court for the Northern District of Illinois, Eastern Division, held that the loitering policy was reasonable and did not interfere with the students' constitutional rights.

Reasoning I: Maine Township High School had a policy outlining loitering in specific areas as a violation of school rules. The courts found that the rule was clear and sufficient, providing students with fair notice of policy and consequences. The policy was reasonable and did not violate the First Amendment rights of students as upheld in *Cox v. Louisiana* (1965).

Disposition: The United States District Court for the Northern District of Illinois, Eastern Division, granted the defendants' motion to dismiss.

Citation: *Hassan v. Lubbock Independent School District*, 55 F. 3d 1075 (Tex. Ct. App. 1995).

Key Facts: James A. Whiteside Elementary sixth grader, Hassan, was detained for misbehaving during a field trip. The sixth grade students went on a trip to visit the Lubbock County Youth Center, a detention center for minors. Hassan failed to respect authority and follow the rules of the facility. He was removed from the group and placed in a holding cell. The student later filed suit claiming First, Fourth, Eighth, and Fourteenth Amendment violations.

Issue I: Did the student's placement in a holding cell violate the student's constitutional rights?

Holding I: The United States Court of Appeals, Fifth Circuit held that the student's Fourth and Fourteenth Amendment rights were not violated.

Reasoning I: The court determined that Hassan's rights were not violated. The atmosphere of the center heightened the disciplined attitude of the center to maintain safety within the facility. Isolating Hassan and allowing the other students to continue a valuable educational experience was viewed as reasonable and justified as applicable to *Webb v. McCullough* (1987).

Disposition: The United States Court of Appeals, Fifth Circuit dismissed in part and rendered in part.

Citation: *Vernonia School District 47J v. Action*, 115 S. Ct. 2386 (U.S. 1995).

Key Facts: The Vernonia School District adopted a Student Athletic Drug Policy that required students participating in athletics to consent to drug testing. A student was offended and refused. The student later filed suit claiming Fourth and Fourteenth Amendment violations. The claims were denied by the district court, reversed by the appeals court.

Issue I: Did the school district's Student Athletic Drug Policy violate the student's constitutional rights?

Holding I: The United States Supreme Court held that the school's drug policy was reasonable and did not violate constitutional rights.

Reasoning I: The United States Supreme Court concluded that the drug policy did not violate the student's rights and was constitutional. The courts found school drug problems to be severe and demonstrated a reasonable need. Students have a decreased expectation of privacy and are not entitled to full Fourth Amendment protections. The state's action and interest in preventing abuse was not a significant invasion of privacy, as observed in *United States v. Edwards* (1974).

Disposition: The United States Supreme Court vacated the district court's judgment.

Citation: *Wallace by Wallace v. Batavia School District 101*, 68 F. 3d 1010 (Ill. Ct. App. 1995).

Key Facts: James Cliffe, Batavia High School teacher, attempted to break up a fight between two 16-year-old girls. Cliffe tried to contain the situation verbally. However, one of the girls, Wallace, was very persistent. Wallace was told to leave the room and Cliffe escorted her by holding her elbow. Wallace filed suit claiming violations of Fourth and Fourteenth Amendment rights.

Issue I: Did Cliffe's actions violate the student's constitutional rights?

Holding I: The United States Court of Appeals, Seventh Circuit held that the teacher's actions were reasonable.

Reasoning I: Wallace failed to support her claim of constitutional deprivation. Cliffe's actions were in the best interest of the safety and education of the students. His actions were viewed as reasonable and supported reduced interference in the educational process. His actions were to prevent a physical fight, restore order in the classroom, and protect other students.

Disposition: The United States Court of Appeals, Seventh Circuit affirmed the judgment of the district court.

Citation: *Harris by Tucker v. County of Forsyth*, 921 F.Supp.325 (M.D.N.C. 1996).

Key Facts: Eight grade students in the Winston-Salem/Forsyth County School System went on a field trip to tour the Forsyth County Detention Center. All students were frisked and explained the rules of conduct. The plaintiff, Latasha Harris, continuously ignored instructions and was disruptive. After ignoring additional attempts made by the teacher to redirect her behavior she was taken to a holding cell. The other students continued on the tour. Harris later

filed suit claiming violation of her constitutional rights. The defendants filed a motion of summary judgment based on qualified immunity.

Issue I: Did placing Harris in a holding cell violate her constitutional rights?

Holding I: The United States District Court for the Middle District of North Carolina, Salem Division, held that the defendants were entitled to summary judgment.

Reasoning I: The court determined that the student's punishment was within the discretion of school officials. The punishment was rationally related to the goal of providing safe and valuable educational experience for all students. The plaintiff failed to show sufficient evidence of claims. Defendants provided evidence that there was no deprivation of constitutional rights and were entitled to summary judgment based on qualified immunity.

Disposition: The United States District Court for the Middle District of North Carolina, Salem Division, granted the defendant's motion for summary judgment.

Citation: *Heller v. Hodgin*, 928 F.Supp. 789 (S.D. Ind. 1996).

Key Facts: Students at Lawrence Central High School were involved in a verbal altercation in the cafeteria. The incident included name-calling and the use of obscenities. The school handbook stated that the use of obscene language is a major violation. Both students were suspended for 5 days for the use of profane language. One of the students, Heller, filed suit claiming violation of constitutional rights.

Issue I: Did school officials violate Heller's constitutional rights?

Holding I: The United States District Court for the Southern District of Indiana, Indianapolis Division, held that the plaintiff's argument was without merit.

Reasoning I: Heller claimed First and Fourth Amendment violations. Heller was made aware of the obscenities policy. Therefore, in applying standards in *Goss v. Lopez* (1975), her

suspension was not a violation of due process. In addition, her First Amendment violation claims were without merit. The school had a clear policy on fighting and the use of obscene language.

Disposition: The United States District Court for the Southern District of Indiana, Indianapolis Division, granted Heller's motion to dismiss and denied her motion for injunction.

Citation: *Jackson v. Katy Independent School District*, 951 F.Supp. 1293 (S.D. Tex. 1996).

Key Facts: A seventh- grade bi-racial student, Brison Jackson, felt that school personnel treated him differently from non-minority students. The plaintiff claimed that he was subjected to discriminatory conduct consisting of verbal attacks, excessive detentions and conduct slips. Brison stated that non-minority students were provided greater freedom. The plaintiff filed claims of race-based discrimination and hostile environment.

Issue I: Were the civil rights of Brison Jackson violated by school personnel.

Holding I: The United States District Court for the Southern District of Texas--Houston Division, held that the plaintiff failed to provide sufficient evidence of discrimination claims. Defendants motioned for summary judgment based on qualified immunity.

Reasoning I: Qualified immunity provides protection for government authorities sued for individual capacities of conduct. The defendant must establish that they are working within the scope of discretionary authority. Then, the burden falls to the plaintiff to prove that the defendant's actions were in bad faith or outside their scope of authority as established in *Harlow v. Fitzgerald* (1982). The plaintiff, Jackson, failed to produce evidence to support that his rights were violated. The court reviewed the case and found no evidence of discrimination intent and determined that the defendant was protected by qualified immunity and granted summary judgment.

Disposition: The United States District Court for the Southern District of Texas--Houston Division, granted summary judgment to the defendants and dismissed with prejudice.

Citation: *Rasmus v. State of Arizona*, 939 F. Supp. 709 (D. Ariz. 1996).

Key Facts: Emotionally handicapped student, Charles Rasmus, attended Roadrunner School. The school had a closet that was used as the time-out room for disciplinary issues. Charles was ordered to the room after being disruptive. He remained in the room for 10 minutes and was released. The student was well-behaved for the remainder of the day. His parents later filed suit on his behalf claiming violations of the Fourth and Fourteenth Amendments.

Issue I: Did the school's use of the time-out room violate the student's constitutional rights?

Holding I: The United States District Court for the District of Arizona held that the use of the time-out room itself was not unconstitutional but it did not meet fire code and regulatory requirements.

Reasoning I: In applying *Hayes though Hayes v. Unified School District 377* (1987), the school's use of the time-out room was constitutionally permissible. The court determined that the school's usage of the time-out room was an unreasonable seizure in that it violated the fire code and the state's management plan guidelines. However, this discipline measure did not violate the student's property interest or due process. Rasmus' isolation was determined solely by his behavior and not reflective of his disability. The school system did not realize their policy was unlawful and they were eligible for summary judgment based on qualified immunity.

Disposition: The United States District Court for the District of Arizona denied summary judgment on the Fourth Amendment and granted on remaining claims.

Citation: *Seamons v. Snow*, 84 F. 3d 1226 (Utah Ct. App. 1996).

Key Facts: Sky View High School student, Brian Seamons, was assaulted by upper-class members of the football team. Five football team members grabbed and restrained Seamons as he came out of the shower. He reported the incident to the football coach and school administration. The coach criticized Seamons for betraying his teammates and dismissed him from the team when he refused to apologize. The school district responded by cancelling the playoff game. This outraged the students and they reacted in a hostile manner toward Seamons. Seamons transferred to another school and filed a suit claiming violations of constitutional rights.

Issue I: Did the school officials violate the student's constitutional rights?

Holding I: The United States Court of Appeals for the Sixth Circuit held that student speech was entitled to protection under the constitution.

Reasoning I: Seamons was required to provide evidence of deprivation of constitutional rights to support his claims. Seamons' speech was responsible and did not invade the rights of other students as outlined in *Hazelwood* (1988). Seamons had the right to report the assault. However, Saemons failed to demonstrate sufficient evidence to support additional claims of discrimination or violations of due process.

Disposition: The United States Court of Appeals for the Sixth Circuit affirmed the district court's dismissal of all claims except the First Amendment freedom of speech claim.

Citation: *Bills by Bills v. Homer Consolidated School District No. 33-C*, 967 F.Supp. 1063 (N.D. Ill. 1997).

Key Facts: Fifth grade Schilling Elementary School student Robert Bills was suspected of setting a fire in a school locker. Bills was questioned numerous times by Kamarauskas, a Will County police officer, after another student admitted setting the fire. Bills eventually admitted providing the other student with the propane torch, signed a confession and was expelled.

Issue I: Were the constitutional rights of Robert Bills violated by continuous questioning by Officer Kamarauskas?

Holding I: The United States District Court for the Northern District of Illinois, Eastern Division, held that Bills' Fourth Amendment rights were violated by the officer's questioning.

Reasoning I: The plaintiff, Robert Bills, was able to provide sufficient evidence to support his claims of Fourth Amendment violation. Bills retained the right to be free from unreasonable searches and his rights were denied by the officer's continued questioning. However, Bills' Fifth Amendment rights were not proved to have been violated. Applying in *re Daley* (1977), Bills' expulsion hearing was not to determine criminal activity and does not retain the right to self-incrimination. The court stated that an un-Mirandized confession does violate the Fifth Amendment, entitling the officer to qualified immunity.

Disposition: The United States District Court for the Northern District of Illinois, Eastern Division, granted the defendant's motion in part and denied in part.

Citation: *Kicklighter v. Evans County School District*, 968 F. Supp. 712 (S.D. Ga. 1997).

Key Facts: Claxton High School student, Crystal Kicklighter, was suspended for disrupting class. Kicklighter exchanged inappropriate words with another student, received a 5-day suspension and was required to apologize to the class. After several additional days passed, Kicklighter returned to school without providing an apology. The principal and two policemen entered the classroom to remove Kicklighter. She later filed suit claiming violations of First and Fourteenth Amendment rights. The school board filed a motion for summary judgment based on qualified immunity.

Issue I: Did the school's punishment violate Kicklighter's constitutional rights?

Holding I: The United States District Court for the Southern District of Georgia, Statesboro Division, held that no violations of constitutional rights were presented.

Reasoning I: The court held that Kicklighter did not provide proof of procedural due process violations. The student failed to show that she was denied the opportunity to be heard through administrative remedies. In addition, the court found that there was not First Amendment violation of free speech. Kicklighter neglected to provide sufficient evidence that she was treated differently based on her pregnancy and relationship with a Black student. As a result, summary judgment was awarded to the defendants.

Disposition: The United States District Court for the Southern District of Georgia, Statesboro Division, granted the school board's motion for summary judgment.

Citation: *Pirschel v. Sorrell*, 2 F.Supp.2d 930 (E.D. Ky. 1998).

Key Facts: Montgomery County High School student, Mark Pirschel, was in possession of alcohol while attending a basketball tournament. Officer James Fee found Pirschel with beer in his possession in the parking lot of the hosting school. Lee informed school officials of Pirschel's actions and he was suspended for 5 days. This was the second time that he was suspended for possession of alcohol on school property. He filed suit claiming that the suspension violated his procedural due process rights. School officials filed a motion for summary judgment.

Issue I: Was the student's suspension a violation of his rights to due process granted?

Holding I: The United States District Court for the Eastern District of Kentucky, Lexington Division, held that the student's suspension was not a violation of due process.

Reasoning I: The court found in favor of the school officials. The basketball tournament was considered a school sponsored activity. *Hazelwood* (1988) supports that school officials are

entitled to exercise greater control over students during public extracurricular activities. Student performances during such activities are a reflection of the school itself. Pirschel's suspension was reasonably enforced within the school's authority. The school has a responsibility in teaching and promoting safety. The student was informed of the suspension, meeting Fourth Amendment procedural due process.

Disposition: The United States District Court for the Eastern District of Kentucky, Lexington Division, granted the school officials motion for summary judgment.

Citation: *Achman v. Chicago Lakes Independent School District No. 2144*, 45 F.Supp2d 664 (D. Minn. 1999).

Key Facts: Chisago Lakes High School student Achman was involved in numerous incidents of misconduct. The incidents usually involved inappropriate sexual gestures, language, and threats of violence. Achman was suspended for 10 days for disrupting the education of other students. Achman publicly intimidated a 14-year-old girl with whom he had questionable sexual relations . He made several inappropriate sexual comments in the lunchroom in the presence of several students. Achman filed suit claiming multiple violations. School officials filed a motion for summary judgment.

Issue I: Did the school officials violate Achman's constitutional rights?

Holding I: The United States District Court for the District of Minnesota held that school officials did not violate Achman's constitutional rights.

Reasoning I: Achman claims that he was not provided with written notice of the suspension before it went into effect. At the suspension hearing, Achman's parents left abruptly before the suspension documents were provided. The principal placed the notification in the mail after the hearing. This was a technical and *de minimus* violation of Minnesota's Pupil Fair

Dismissal Act. *Bystrom v. Fridley High School* (1987) supports the dismissal of claims where the suspension notice was not served but mailed to the parents the same afternoon. The court concluded that Achman's exclusion from the suspension conference was at the request of the parents and he was afforded all entitled due process.

Disposition: The United States District Court for the District of Minnesota granted the defendant's summary judgment.

Citation: *Henerey ex rel. Henerey v. City of St. Charles, School District*, 200 F. 3d 1128 (Mo. Ct. App. 1999).

Key Facts: A St. Charles High School student, Adam Henerey, was running for junior class president. All candidates were required to have all campaign materials approved by administration. On election day, Henerey distributed condoms with his slogan, "Adam Henerey, The Safe Choice," to students in the hallway. Henerey was disqualified from the election for failure to comply with school board rules. Henerey filed suit claiming violation of First Amendment rights. The defendants' filed a motion for summary judgment.

Issue I: Was Henerey's disqualification a violation of his First Amendment rights?

Holding I: The United States Court of Appeals, Eighth Circuit, held that disqualifying Henerey did not violate his constitutional rights.

Reasoning I: *Hazelwood* (1988) supports that school officials are entitled to exercise greater control over students speech in school sponsored activities. School officials may restrict individual student expression that interferes with the requirements of appropriate discipline and school operations. The election was a supervised school activity and the school acted reasonably in disqualifying him from the election and preserving the interest of the school.

Disposition: The United States Court of Appeals, Eighth Circuit, granted summary judgment in favor of the defendants.

Citation: *Higginbottom ex. rel. Davis v. Keithley*, 103 F.Supp.2d 1075 (S.D. Ind. 1999).

Key Facts: Lillian Emery Elementary School teacher Larry Brunson noticed the disappearance of \$38.00 missing from the unattended snack cart. Brunson singled out 11 sixth grade boys and instructed them to strip to their underwear in the restroom. During the search, the money was found in the possession of another student. The plaintiffs claim that Brunson's strip search violated Fourth and Fourteenth Amendment rights. The defendants filed a motion for summary judgment.

Issue I: Did the strip search violate the student's constitutional rights?

Holding I: The United States District Court for the Southern District of Indiana, New Albany Division, held that there was insufficient evidence to support the plaintiffs' claim.

Reasoning I: The plaintiffs' failed to present significant evidence to support contract, battery, and intentional infliction of emotional distress claims. The court found the plaintiff's ratification theory without merit and not properly presented. In regard to the Fourth Amendment claim, the court states that neither party developed sufficient evidence to assess reasonableness and denied both motions. No evidence was presented to suggest that the search was discriminatory. Absent of sufficient proof, the defendant's motion for summary judgment was granted.

Disposition: The United States District Court for the Southern District of Indiana, New Albany Division granted the school officials motion for summary judgment.

Citation: *Kurilla v. Callahan*, 68 F.Supp.2d 556 (M.D. Pa. 1999).

Key Facts: Eighth grade Mid Valley Secondary Center student, Kurilla, was fighting with another student while in study hall. The teacher, Callahan called both students up to his desk. While questioning the other student, Kurilla interrupted. Callahan responded by telling him to shut up and grabbing him by the shirt and pulling him. Kurilla claimed that he was bruised from this incident. Kurilla filed suit claiming violation of due process. Both parties motioned for summary judgment.

Issue I: Did the teacher's actions violate the student's due process rights?

Holding I: The United States District Court for the Middle District of Pennsylvania held that the student's rights were not violated.

Reasoning I: Kurilla alleged that Callahan's conduct was unreasonable and violated his Fourth and Fourteenth Amendment rights. The court's conclusion of this case is derived from *Ingraham v. Wright* (1977). This case holds that the deliberate force in restraining is protected by the Fourteenth Amendment and is governed by substantive due process standards.

Disposition: The United States District Court for the Middle District of Pennsylvania granted the teacher's motion for summary judgment.

Citation: *London v. Directors of DeWitt Public Schools*, 194 F. 3d 873 (Ark. Ct. App. 1999).

Key Facts: DeWitt Middle School student Carl Avery appealed the district court's judgment against him. Avery was scuffling in the lunchroom with another student. A coach ordered the students to leave the cafeteria. Avery ignored his directive. The coach attempted to remove Avery by force, but Avery resisted and fought back. During the incident, that coach dragged Avery and banged his head against a metal pole. After reaching the principal's office, Avery hit the principal on the arm. The principal alerted the police, suspended Avery for 10

days, and recommend expulsion. Avery filed suit claiming violation of due process. The defendant's motion for summary judgment was granted by the district court and the plaintiff appealed.

Issue I: Did the defendant's actions violate the student's due process?

Holding I: The United States Court of Appeals, Eighth Circuit held that the defendant's actions did not violate substantive or procedural due process.

Reasoning I: Effective order and discipline in schools is vital in the educational process. Avery continuously refused the coach's directive. The coach's conduct did not constitute a substantive due process violation. Avery was informed of the charges against him and provided the opportunity to present his side. The court held that the school's conduct and physical confrontation was not unconscionable, nor was Avery's suspension procedurally defective.

Disposition: The United States Court of Appeals, Eighth Circuit affirmed the judgment of the district court.

Citation: *Jensen v. Reeves*, 45 F.Supp.2d 1265 (D. Utah. 1999).

Key Facts: A Sharon Elementary Student first grade student, C.J., had an extensive history of misconduct. He often used nasty language, hit and kicked others, and disobeyed his teacher. C.J. received numerous citizenship slips and loss of lunch privileges. In addition, several harassment complaints were made by parents. C.J. was suspended for 10 days. He later filed suit for denial of constitutional rights.

Issue I: Did the school district violate the student's constitutional rights?

Holding I: The United States District Court for the District of Utah, Central Division held that the student's due process rights were not violated.

Reasoning I: The court found that C.J.'s due process rights of the Fourteenth Amendment were not violated. The plaintiff failed to produce adequate support to his claims of deprivation of constitutional rights as supported in *Gunkel v. City of Emporia* (1987). His suspension was rationally related to the school's interest in discipline. Applying *Goss v. Lopez* (1975) justifies that the immediate suspension without notice may be temporarily waived when the student poses a danger to persons, property, or continuous disrupting of the educational process.

Disposition: The United States District Court for the District of Utah, Central Division granted the school's motion to dismiss.

Citation: *Fuller v. Decatur Public School Board of Education School District 61*, 78 F. supp.2d 812 (C.D. Ill. 2000).

Key Facts: A fight broke out between students in the Decatur Public School District No. 61 at an Eisenhower High School football game. Evidence was gathered by school officials to determine who was involved in the fight. Each student was suspended for 10 days pending board action. The principal recommended that Bond and Fuller be expelled for 2 years due to the severe nature of the infraction. The school board later decided to decrease the expulsion from 2 years to the remainder of the school year.

Issue I: Did the school boards expulsion deny the student's constitutional rights?

Holding I: The United States District Court for the District of Illinois, Danville/Urbana Division, held that the student's constitutional rights were not violated.

Reasoning I: The plaintiffs failed to present evidence to support their claims. The courts considered the expulsion as extreme but understandable. The right to an education is not guaranteed implicitly or explicitly by the Constitution. Therefore, it is not seen as a fundamental right as seen in *Smith and Severn*, 129 F.3d 419, 429 (7th Cir. 1997). In regard to the procedural

due process claim, the expulsion hearing was sufficient in meeting minimum procedural requirements.

Disposition: The United States District Court for the District of Illinois, Danville/Urbana Division, granted the defendant's motion to dismiss.

Citation: *Hammock ex rel Hammock v. Keys*, 93 F. Supp.2d 1222 (S.D. Ala. 2000).

Key Facts: A police officer and assistant principal conducted a search with canines in the Gulf Shores High School parking lot. School officials had received multiple reports of drug usage on campus. Two police dogs alerted officials to Hammock's vehicle. Hammock was removed from class to open the vehicle. The car was searched and a small amount of marijuana was found. The student was suspended for 10 days for possession of inappropriate material, pending an expulsion hearing. The board upheld the expulsion. The plaintiff filed motion for preliminary injunction claiming violations of constitutional rights?

Issue I: Did the search violate the student's constitutional rights?

Holding I: The United States District Court for the Southern District of Alabama, Southern Division, held that the student's rights were not violated.

Reasoning I: The plaintiff, Hammock, failed to establish the two initial requirements for issuance of preliminary injunction. The first being substantial likelihood of success on the merits with respect to her constitutional claims. The second being threat of irreparable injury based on alleged due process and equal protection claims (*Tefel v. Reno*, 1999).

Disposition: The United States District Court for the Southern District of Alabama, Southern Division, denied the plaintiff's motion for preliminary injunction.

Citation: *West v. Derby Unified School District No. 260*, 206 F. 3d 1358 (Kan. Ct. App. 2000).

Key Facts: Derby Unified School District #260 adopted a Racial Harassment and Intimidation policy to reduce racial tension between students. Derby Middle School student, T.W. was suspended for drawing a Confederate flag during math class. His actions were a violation of district policy and he was suspended for 3 days. T.W. filed suit claiming First and Fourteenth Amendment violations.

Issue I: Did the district's Racial Harassment and Intimidation policy violate T.W.'s constitutional rights?

Holding I: The United States Court of Appeals, Tenth Circuit held that the district's policy did not violate T.W.'s First or Fourteenth Amendment rights.

Reasoning I: After numerous incidents of racially charged tension between Black and White students attending Derby High School, the Derby Unified School District #260 adopted a Racial Harassment and Intimidation policy. The policy was in place to reduce racial tension and intimidation in schools. The court held that the policy did not violate equal protection or free speech by not allowing the use of Confederate flags outside of educational purposes. T.W. received appropriate due process. He was made aware of and allowed to present his side of events in regard to violating the district policy and the charges against him.

Disposition: The United States Court of Appeals, Tenth Circuit affirmed the judgment of the district court.

Citation: *Rabideau v. Beckmantown Center School District*, 89 F.Supp.2d 263 (N.D.N.Y. 2000).

Key Facts: Alyssa Rabideau, Cumberland Head Elementary School student, was disciplined for refusal to recite the pledge and participate in morning routine. Rabideau was scolded in the presence of other students, removed from class, and taken to the principal's office.

She also claims she was removed and separated from her classmates in art, recess, music, and lunch as punishment. Rabideau filed suit claiming constitutional violations. The school district moved for partial summary judgment.

Issue I: Was the school district entitled to summary judgment based on Rabideau's constitutional rights violation claim?

Holding I: The United States District Court for the Northern District of New York held that the district was eligible for qualified immunity based on summary judgment.

Reasoning I: *West Virginia State Board of Education v. Barnette* (1943) established that schools may not require or punish students for failure to participate in the Pledge of Allegiance. The court held that there was not sufficient evidence to prove that Rabideau was punished unjustly for refusal to participate in the Pledge of Allegiance. Summary judgment is proper when there is little to no evidence in support of claims (*Gallo v. Prudential Residential Servs.*, 1994).

Disposition: The United States District Court for the Northern District of New York granted the defendant's motion for summary judgment in part and denied in part.

Citation: *Riggan v. Midland Independent School District*, F.Supp.2d 647 (W.D. Tex. 2000).

Key Facts: Casey Gold Riggan, a senior at Midland Senior High School, was under investigation for alleged sexual improprieties. The investigation began when the local newspaper reported having intimate video pertaining to Principal Richmond. Riggan was accused of starting rumors of Richmond's sexual misconduct. Riggan was suspended and assigned to the Alternative Education Program (AEP) for 5 days for his actions. He was also required to write two letters of apology or be banned from participating in graduation ceremonies. The board upheld his

punishment. Riggan filed a suit against the district. The board stated he would be allowed to participate in graduation if he wrote the letters of apology or dropped the lawsuit.

Issue I: Did Riggan's punishment violate his constitutional rights?

Holding I: The United States District Court for the Western District of Texas, Midland--Odessa Division, held that the plaintiff was not deprived of an education and punishment was in harmony with the constitution.

Reasoning I: The plaintiff failed to respond to the motion of summary judgment on the Fifth Amendment substantive due process issue. Therefore, summary judgment was granted to the defendants. However, the procedural due process claim is denied. Riggan claimed that the letter of apology would force him to incriminate himself. *Kicklighter* (1997) supports requiring an apology as a disciplinary action does not violate First Amendment rights and is within the school's authority. More evidence is needed for a determination to be made on the First Amendment claim and the defendant's motion for summary judgment is denied.

Disposition: The United States District Court for the Western District of Texas, Midland--Odessa Division, granted the defendant's motion for summary judgment in part and denied in part.

Citation: *Brian A. ex rel. Aurthur A. v. Stroudsburg Area School District*, 141 F.Supp.2d (M.D. Pa. 2001).

Key Facts: Brian, a tenth grade student at Stroudsburg High School, wrote a note that implied a bomb threat. The assistant principal and school officer questioned Brian about the note. Brian first denied writing the note, but later admitted that he authored the note. Brian was suspended for 10 days for making terroristic threats, pending expulsion proceedings. He apologized and requested to remain in school. Brian was permanently expelled.

Issue I: Did school officials violate Brian's constitutional rights?

Holding I: The United States District Court for the Middle District of Pennsylvania held that the school district did not violate Brian's constitutional rights on all claims.

Reasoning I: Brian was provided all the process that was due him by school officials under *Goss v. Lopez* (1975). He was afforded ample process prior to the suspension and expulsion hearing. Brian claimed that he received improper notice of the expulsion hearing due to receiving the notice 5 days prior. *Jarmon v. Batory* (1994) held that a notice of 3 days prior to the meeting satisfies due process. The courts determined that there was a clear and rational relationship between the punishment and the offense. Schools must maintain safety and order within the educational environment, and Brian's actions disrupted the education of his schoolmates. Therefore, his expulsion satisfied the rational basis test entitling the defendants to summary judgment.

Disposition: The United States District Court for the Middle District of Pennsylvania granted the school district's motion for summary judgment.

Citation: *Butler v. Oak Creek-Franklin School District*, 172 F.Supp.2d 1102 (E.D. Wis. 2001).

Key Facts: Jamaal Butler, an Oak Creek High School student, was suspended from high school athletics for 12 months. Butler was disciplined for violating the Athletic Code. The code prohibits consumption or possession of alcohol, controlled substances, and violating criminal law. Butler was disciplined for possession of marijuana, attending a party with minors drinking alcohol, unlawful possession of intoxicants and fireworks, and a disorderly conduct citation. He was facing suspension for the third offense when the superintendent was informed of the fourth

and fifth violation. The coaches' council affirmed the 12-month athletic suspension. Butler filed suit claiming unconstitutional suspension. The school district moved for summary judgment.

Issue I: Was Butler's suspension unconstitutional?

Holding I: The United States District Court for the Eastern District of Wisconsin held that the defendant failed to submit evidence to support claims.

Reasoning I: Summary judgment is useful in isolating and terminating factually unsupported claims as established in *Celotex Corp. v. Catrett* (1986). The moving party is responsible for demonstrating entitlement to summary judgment on grounds that the non-moving party lacks evidence to support the case. The court decided that the defendants were entitled to summary judgment on the pre-deprivation claim and granted the director qualified immunity. Defendants failed to provide notice of misconduct allegations and upheld that the student was entitled to a hearing. The evidence presented to the coaches' council was deemed inadequate.

Disposition: The United States District Court for the Eastern District of Wisconsin granted the defendant's motion for summary judgment in part and denied in part.

Citation: *Gottlieb ex rel. Calabria v. Laurel Highlands School Dist.*, 272 F. 3d 168 (Pa. Ct. App. 2001).

Key Facts: Rhonda Gottlieb, a junior at Laurel Highlands Public High School, had a history of disruptive behavior. Gottlieb arrived on campus with the intent of confronting another student. She proceeded to the student's classroom and exchanged words regarding an ex-boyfriend. Gottlieb threatened the other student and was escorted to the principal's office. The assistant principal was accused of pushing her into the door jam and causing injury.

Issue I: Did the principal's actions constitute a constitutional violation?

Holding I: The United States Court of Appeals, Third Circuit, held that the district court did not err in granting defendants summary judgment.

Reasoning I: The court found that the principal's push was minor and likely did not cause physical injury. The principal's actions were not malicious or sadistic constituting a constitutional violation. The principal did not have a justifiable need for any use of force. However, no reasonable jury would assume that the administrator intended to harm Gottlieb. Therefore his actions did not warrant a constitutional violation.

Disposition: The United States Court of Appeals, Third Circuit, affirmed the judgment of the district court.

Citation: *Coy ex rel. Coy v. Board of Educ. of North Canton City Schools*, 205 F.Supp.2d 791 (N.D. Ohio 2002).

Key Facts: Jon Coy, student at North Canton Middle School, created and maintained a questionable website from his home computer. Coy accessed the unauthorized website from a school computer on school property. The website contained lewd and obscene material. This was a violation of the school's conduct code and the district internet policy. Coy was suspended for 4 days and later expelled for 80 additional days. Coy was allowed to remain at school on a probationary basis during expulsion. A suit was filed claiming violations of First Amendment rights. The defendants filed a motion for summary judgment.

Issue I: Did the student's suspension/expulsion violate his constitutional rights?

Holding I: The United States District Court for the Northern District of Ohio, Eastern Division, held Coy's constitutional rights were clearly established.

Reasoning I: Coy was disciplined for accessing an unauthorized website. The Court holds that there are material issues of genuine fact. In applying *Tinker* (1969), the school district is

required to show that Coy's expressive activity interfered with the school's requirements of appropriate discipline. There was no supportive evidence to determine that Coy's actions had any bearing on the school's ability to maintain discipline. Therefore, the defendants were not entitled to qualified immunity and the motion for summary judgment was denied.

Disposition: The United States District Court for the Northern District of Ohio, Eastern Division, denied the defendants' motion for summary judgment.

Citation: *Johnson v. Collins*, 233 F.Supp.2d 241 (D.N.H. 2002).

Key Facts: Andrew Johnson, New Market Jr.-Sr. High School student, was expelled for allegedly writing a bomb threat. The bomb threat was found written on a school chalkboard. Police were notified and the school was evacuated and searched. No bomb was found. However, the entire school was disrupted and dismissed for the day. Andrew was seen roaming in the hall near the room where the threat was discovered and school officials received an anonymous phone call implicating Andrew. Andrew's prints were taken but revealed no match. He was later arrested for "false reports to explosives and criminal mischief." Andrew was suspended following the arrest and recommended for expulsion.

The adjudicatory hearing found that the bomb threat allegations were not proven beyond reasonable doubt. Allegations against Andrew were never determined to be true. He was readmitted with the stipulation that committing another offense warranting suspension would reinstate the expulsion. Andrew was later suspended for violating the district's computer use policy. He was expelled before being afforded a hearing and filed for preliminary injunction claiming violations of due process.

Issue I: Did school officials violate Andrew's constitutional rights by enforcing expulsion?

Holding I: The United States District Court for the District of New Hampshire held that Andrew was deprived of due process.

Reasoning I: Plaintiffs would likely succeed on merits. The school official's notice of action to the allegations was inadequate. Andrew was not provided the opportunity to question witnesses at the initial expulsion hearing. His second expulsion did not afford him a hearing. A formal hearing is required before an expulsion can be implemented. The stipulations for readmission were for the previous school year and had expired. The plaintiff demonstrated that he was denied liberty and property without due process. Continued deprivation of education caused suffering of irreparable harm without injunctive relief (*Brown v Board of Education*, 1954). School officials neglected to show that the student posed a threat or danger to staff or students. The plaintiff was granted preliminary injunction requiring school readmission.

Disposition: The United States District Court for the District of New Hampshire granted the plaintiff's preliminary injunction.

Citation: *Holloman ex. Rel. Holloman v. Harland*, 370 F.3d 1252 (Ala. Ct. App. 2004).

Key Facts: Michael Holloman, student at Parrish High School, filed a suit against his economics and government teacher, school principal, and the school board. He claimed violation of the First Amendment's Speech Clause. He was punished for raising his fist and not reciting the Pledge of Allegiance. He also claimed that his Establishment Clause rights were violated by the daily ritual of conducting a silent moment of prayer. The district court granted the defendant's summary judgment motion based on qualified immunity. Holloman filed an appeal.

Issue I: Did the school officials violate the student's constitutional rights?

Holding I: The United States Court of Appeals, Eleventh Circuit, held that the defendants were not entitled to summary judgment.

Reasoning I: The court applied the *Lemon* (1988) test to the teacher's solicitation of prayer requests and moment of silence fostering prayer. The teacher's behavior promoting prayer and religious activity constituted an unacceptable endorsement of religion. Therefore, the teacher's practice failed the *Lemon* test on two separate bases *Jaffree* (1988). The court determined there was a clearly established violation of the Constitution by applying the Supreme Court's *Jaffree* (1988) decision. The teacher did not meet the eligibility requirements for qualified immunity and the school board could be held liable for her inappropriate actions.

Disposition: The United States Court of Appeals, Eleventh Circuit, reversed the judgment of the district court.

Citation: *Porter v. Ascension Parish School Board*, 393 F.3d 608 (La. Ct. App. 2004).

Key Facts: Adam Porter, an East Ascension High School student, was expelled for a sketch he drew 2 years prior. His younger brother, Andrew, used the sketch pad and took it to school. When showing students his drawing, they flipped through and saw his brother's disturbing drawing. The incident was reported to school officials and Andrew was suspended. Adam was searched and several inappropriate items were found. Adam was recommended for expulsion and enrolled in alternative school.

Issue I: Did the school officials violate the student's constitutional rights?

Holding I: The United States Court of Appeals, Fifth Circuit, held that there was no violation of constitutional rights.

Reasoning I: The court finds that the district court properly awarded summary judgment on Fourth Amendment and Due Process claims. The plaintiffs satisfied the reasonableness requirement for search and seizure. The court did not agree in finding no violation of First Amendment rights. However, the defendants were eligible for qualified immunity.

Disposition: The United States Court of Appeals, Fifth Circuit, affirmed the judgment of the district court.

Citation: *Wofford v. Evans*, 390 F. 3d 318 (Va. Ct. App. 2004).

Key Facts: Ten-year-old Colonial Elementary School student M.D. was detained for suspension of gun possession. Classmates reported seeing the student with a gun. School officials isolated the student, contacted authorizes, questioned her, and searched her belongings. After confirmation that no gun was on the premises, school officials contacted M.D.'s parents. M.D. later filed suit claiming violation of Fourth and Fourteenth Amendment rights. The district court found no violations and the plaintiff appealed.

Issue I: Did the student's detention constitute a Fourth and Fourteenth Amendment violation?

Holding I: The United States Court of Appeals, Fourth Circuit, held that the student's constitutional rights were not violated.

Reasoning I: School officials have the responsibility to maintain order and provide a safe and secure educational environment. Discipline must be responded to efficiently and effectively to support this goal, validating seizure of the student in question. The detention of the student was reasonable and necessary (*T.L.O.*, 1985).

Disposition: The United States Court of Appeals, Fourth Circuit affirmed the judgment of the district court.

Citation: *Bravo ex rel. Ramirez v. Hsu*, 404 F. Supp.2d 1195 (C.D. Cal. 2005).

Key Facts: Eight grade Sierra Vista Middle School student Jennyfer Bravo was suspecting of having illegal drugs. Several students reported seeing her with drugs in her possession. School officials detained, searched, and questioned Bravo. She admitted that she was

using drugs and confirmed that her friend had taken and flushed them. Bravo was suspended and recommended for expulsion. She filed a suit claiming violations of Fourth Amendment rights. School officials filed a motion for summary judgment based on qualified immunity.

Issue I: Did the school officials' search violate Bravo's Fourth Amendment rights?

Holding I: The United States District Court for the Central District of California, Southern Division, held that Bravo's Fourth Amendment rights were not violated.

Reasoning I: Summary judgment is useful in isolating and terminating factually unsupported claims as established in *Celotex Corp. v. Catrett* (1986). The moving party is responsible for demonstrating entitlement to summary judgment on grounds that the non-moving party lacks evidence to support the case. The defendants satisfied the reasonableness requirement for search and seizure. The court did not find any violations of Fourth Amendment rights. The defendants were eligible for qualified immunity. The court decided that the defendants were entitled to summary judgment.

Disposition: The United States District Court for the Central District of California, Southern Division, granted the defendants' motion for summary judgment.

Citation: *Cohn v. New Paltz Central School District*, 363 F.Supp.2d 421 (N.D.N.Y. 2005).

Key Facts: Plaintiff Evan Cohn, a New Paltz High School student, was suspected of possessing and distributing handguns with two other students. Students reported hearing Cohn discussing guns. The guns were later discovered off-campus. School officials evacuated the building. Cohn was suspended for the remainder of the school year, following a disciplinary hearing. He filed suit claiming violations of First and Fourteenth Amendment rights. The school officials moved for judgment.

Issue I: Did school officials' enforcement of suspension violate the student's constitutional rights?

Holding I: The United States District Court for the Northern District of New York held that the suspension lacked rational basis.

Reasoning I: It is clear that the plaintiff received notice of the charges and hearing dates. He had utilized procedural safeguards to vacate the disciplinary decision. Therefore, he failed to provide supportive evidence of procedural due process violations. Schools are responsible for maintaining discipline and providing a safe educational environment. Suspicion of handgun possession constitutes a disruption in the education process and does not constitute a violation of substantial due process rights. The court found that the student's speech about handguns did not directly constitute a threat and did not express intent to harm. School officials reasonably believed that they were working under discretion of their authority and were not in violation of First Amendment rights. Therefore, the defendant was entitled to qualified immunity.

Disposition: The United States District Court for the Northern District of New York granted defendants' motion in part and denied in part.

Citation: *Daniels v. Lutz*, 407 F. Supp. 2d 1038 (E.D. Ark. 2005).

Key Facts: A disruption erupted in a classroom at Lakewood Middle School. The teacher, Deborah Lutz, stepped outside the class to discipline another student. When she returned, the plaintiff, Johnstin Daniels, was leaning out of his seat picking up something from the floor. Lutz struck Daniels on the head and he was hit in the eye with the corner of a file folder. Daniels sustained an eye injury that required several doctor's visits and corrective lenses. Lutz later grabbed Daniels by the shirt collar and his neck to prevent him from leaving the classroom.

Daniels filed suit claiming violation of Fourteenth Amendment rights and battery. Lutz filed a motion for summary judgment.

Issue I: Did the teacher's discipline apply excessive force, violating the student's constitutional rights?

Holding I: The United States District Court for the Eastern District of Arkansas, Western Division, held that the plaintiff failed to provide sufficient evidence to support substantive due process and equal protection claims.

Reasoning I: The plaintiff failed to provide evidence to support substantive due process and equal protection claims. The teacher's conduct occurred while she was attempting to restore order to the classroom and was not malicious or sadistic. There was no evidence that the other students were acting in the same manner or that the plaintiff was singled out. The court held that the teacher was not immune from the battery claim.

Disposition: The United States District Court for the Eastern District of Arkansas, Western Division, granted the defendant's motion in part and denied in part.

Citation: *Posthumus v. Board of Education of Mona Shores Public Schools*, 380 F.Supp.2d 891 (W.D. Mich. 2005).

Key Facts: Mona Shores High School senior Ryan Posthumus filed a suit claiming constitutional violations. Posthumus was participating in the school's honors assembly when the assistant principal, Vanderstelt, noticed him holding a package of graham crackers. Vanderstelt took the graham crackers as he walked by. Posthumus followed him down the hall complaining about his actions and yelled vulgar and obscene comments. He was suspended for 10 days and required to miss senior class events and commencement ceremonies.

Issue I: Did the student's punishment violate his constitutional rights?

Holding I: The United States District Court for the Western District of Michigan, Southern Division held that school officials did not violate the student's constitutional rights.

Reasoning I: Posthumus failed to support his claims that missing the events constituted a situation deserving additional procedural safeguards. He still received his diploma on time without adverse consequences. Substantive due process succeeds when there is not a rational relationship between the offense and the punishment. Posthumus was unable to show special circumstances to support his claim of substantive due process. The court found that the student's punishment did not infringe on his constitutional rights. Failing to discipline the student for his actions would encourage inappropriate behavior and disrespect toward school officials. The court found no violations of constitutional rights and school officials were entitled to summary judgment.

Disposition: The United States District Court for the Western District of Michigan, Southern Division, granted the defendants' motion for summary judgment.

Citation: *Burreson v. Barneveld School District 434*, F.Supp.2d 588 (W.D. Wis. 2006).

Key Facts: Plaintiff Nicholas Burreson, a student at Barneveld High School, was suspected of a vehicle theft. He was called from class and interviewed by police three times at school. The officers also took a DNA sample. He did not object to the interrogation or submitting the DNA sample.

Plaintiff filed suit against the principal, Knudson, for violating his constitutional rights by removing him from class to participate in a police investigation. The defendant filed a motion for summary judgment.

Issue I: Did allowing the police interrogation and DNA sample taken on school grounds violate the student's constitutional rights?

Holding I: The United States District Court for the Western District of Wisconsin held that the student's constitutional rights were not violated.

Reasoning I: The plaintiff claims that his rights to due process, equal protection, and freedom from unreasonable search and seizure were violated by the principal. The facts do not support violation of the plaintiff's constitutional rights. The defendant motioned for summary judgment. The principal was acting in his official capacity by allowing officers to question Burreson. Summary judgment is proper when there is little to no evidence in support of claims (*Gallo v. Prudential Residential Servs.*, (1994)).

Disposition: The United States District Court for the Western District of Wisconsin granted motion for summary judgment.

Citation: *Gray ex rel. Alexander v. Bostic*, 458 F.3d 1295 (Ala. Ct. App. 2006).

Key Facts: A 9-year old student, Gray, was handcuffed and detained after threatening to hit her coach. The deputy, Bostic, who witnessed the incident took the student into the hall and handcuffed her for 2 to 5 minutes. His intent was to show her the serious nature of her offense that could lead to legal punishment. Gray's mother filed a complaint against the deputy and the sheriff containing eight counts: violations of First, Fourth, Fifth, Eighth, and Fourteenth Amendment rights, invasion of privacy, assault and battery, false imprisonment, defamation, intentional infliction of emotional distress, and declaratory and injunctive relief. The case was originally dismissed. Gray filed an appeal and the court reversed stating that she was entitled to pursue her Fourth amendment claim. Gray's amended complaint included claims of excessive use of force and unreasonable seizure.

Issue I: Did the defendant meet the reasonableness requirements for a summary judgment based on qualified immunity applied to school seizure when stopping the student for questioning?

Holding I: The United States Court of Appeals, Eleventh Circuit, held that the reasonableness standard applied to school seizures and the deputy acted reasonably in questioning the student.

Reasoning I: Qualified immunity provides protection for government authorities sued for individual capacities of conduct. The defendant must establish that they are working within the scope of discretionary authority. The deputy's duties did include questioning and detaining students as established in *Harbert Int'l v. James* (1998).

Issue II: Did the defendant's actions of handcuffing the student violate the constitution?

Holding II: The United States Court of Appeals, Eleventh Circuit, held that the deputy's actions did violate Gray's constitutional rights and were not reasonable given that the student did not pose a threat to anyone's safety.

Reasoning II: While Deputy Bostic's position did grant him the authority to detain and question students within the scope of reasonableness, his actions in handcuffing the 9 year-old student was excessive. The court applied the reasonableness standard of schools seizures by law enforcement officers as communicated in *New Jersey v. T.L.O.* (1985). The first step, determining justification and witnessing a threat, does provide reasonable circumstances. In step two there was no reasonable threat that warranted cuffing a 9 year-old and was excessively intrusive. Therefore, handcuffing Gray was a violation of her Fourth Amendment rights.

Disposition: The United States Court of Appeals, Eleventh Circuit, affirmed the district court's denial of summary judgment against Deputy Bostic and remanded for further proceedings.

Citation: *Pace v. Talley*, 206 Fed. Appx. 388 (La. Ct. App. 2006).

Key Facts: The plaintiff, Daniel Pace, appealed the district court's decision claiming violation of privacy rights. Pace was reported to police for suggesting a threat of school violence, without providing him the opportunity to respond.

Issue I: Did the district court err in granting summary judgment to the defendants?

Holding I: The United States Court of Appeals, Fifth Circuit, held the judgment of the district court.

Reasoning I: Pace did not show evidence that his expectation of privacy outweighed the school's safety interest. The plaintiff failed to establish that the granting of the defendant's motion of summary judgment was in error.

Disposition: The United States Court of Appeals, Fifth Circuit, affirmed the judgment of the district court.

Citation: *Pinard v. Clatskanie School Dist.* 6J, 467 F. 3d 755 (Or. Ct. App. 2006).

Key Facts: The plaintiffs, eight Clatskanie High School basketball players, appealed the decision of the district court. Baughman, the team coach, spoke offensively to the players. The team held a meeting and submitted a petition requesting the resignation of Baughman. The players refused to play in that night's game. The next day the assistant coach suspended all of the players who signed the petition. The plaintiffs filed a suit claiming First Amendment violations. The district court granted summary judgment to the defendants. The plaintiffs filed an appeal.

Issue I: Did the defendants' suspension violate the students' First Amendment rights?

Holding I: The United States Court of Appeals, Ninth Circuit, ruled that the student petition was protected speech, but refusal to play was not protected.

Reasoning I: The court reversed in part and affirmed the defendants' motion for summary judgment. Summary judgment is proper when there is little to no evidence in support of claims (*Gallo v. Prudential Residential Servs.*, 1994). The students' complaints and petition were protected under First Amendment student speech and did not create a substantial disruption. However, refusing to play in the upcoming game was not protected and was a disruption to the basketball program. The court remanded in the court retaliation claim.

Disposition: The United States Court of Appeals, Ninth Circuit, affirmed in part, reversed in part, and remanded.

Citation: *Ponce v. Socorro Independent School District*, 432 F.Supp.2d 682 (W.D. Tex. 2006).

Key Facts: Montwood High School student E.P. challenged the school's disciplinary action. E.P. was suspended for writing stories that threatened violence to the school campus. The stories were allegedly fictional creative writing. His writing was viewed as threatening and terroristic violating the code of conduct. E.P. filed suit claiming violations of First, Fourth, and Fourteenth Amendment rights.

Issue I: Was suspending the student for questionable creative writing a violation of his First Amendment rights?

Holding I: The United States District Court for the Western District of Texas, El Paso Division, held that the plaintiff's First Amendment claim was likely to succeed on merits.

Reasoning I: The plaintiffs succeeded in showing the likelihood of succeeding on merits on First Amendment claims and their motion for preliminary injunction was granted. Applying

Tinker (1969), the defendants did not meet the reasonableness requirement of showing that E.P.'s expression interfered with the operation of the school. The defendants failed to show likelihood of success on merits under the Fourth and Fourteenth Amendments. The court found that the potential harm to E.P. outweighed the possible harm to the defendant and denied the defendants' motion to dismiss.

Disposition: The United States District Court for the Western District of Texas, El Paso Division, granted in part and denied in part.

Citation: *Boim v. Fulton County School Dist.*, 494 F.3d 978 (Ga. Ct. App. 2007).

Key Facts: Rachel Boim, a high school student, wrote a narrative describing shooting her teacher in a notebook. Rachel shared her writing with a classmate. The teacher observed the students off-task and asked for the notebook. The teacher later read the narrative and turned it in to the administrative assistant. Concerned with the violent undertones of the narrative, the teacher stated she was shocked and felt threatened. It was determined that Rachel violated three school rules: (1) threat of bodily harm; (2) disregarding school rules, directions, or commands; and (3) disrespectful conduct. She was suspended for 10 days.

Issue I: Did the district court err in granting summary judgment in favor of the defendants on the basis that Rachel's suspension did not violate First Amendment rights?

Holding I: The court held that school officials did not violate Rachel's First Amendment rights.

Reasoning I: Schools must have flexibility to control student speech on school property and Rachel's behavior was reasonably and likely to cause a substantial disruption to the school's maintenance of order and decorum. Under the *Burnside* standard in *Burnside v. Byars* (1966),

student expression may be regulated without question when it contributes to maintaining order and decorum in educational settings.

Issue II: Did the district court err in deciding that Rachel was not entitled to any injunctive relief requiring that her records be expunged of negative documentation related to her suspension?

Holding II: The United States Court of Appeals, Eleventh Circuit, held that the plaintiffs were not entitled to injunctive relief requiring the removal of the disciplinary records from Rachel's education file.

Reasoning II: Based on the review of the district court's decision in reference to *Kidder, Peabody & Co., Inc. v. Brandt* (1997), the plaintiffs did not provide sufficient evidence to support a violation of constitutional rights in permanently documenting disciplinary action.

Disposition: The United States Court of Appeals, Eleventh Circuit, affirmed the district court's grant of summary judgment for the defendants.

Citation: *Layshock v. Hermitage School District*, 496 F. Supp.2d 587 (W.D. Pa. 2007).

Key Facts: The plaintiff, Justin Layshock, a Hickory High School senior, was punished for out-of-school conduct. Layshock created a parody profile of his principal, Trosch, on a website. The profile was created at his grandmother's home during non-school hours. He copied a picture of Trosch from the school's website. The profile was unflattering and offensive. The majority of the student body was aware of the profile. He was suspended for violating conduct codes of disruption, harassment, and disrespect. He was placed in alternative school and banned from attending school sponsored events. Layshock filed suit claiming violation of his First Amendment rights.

Issue I: Did the school district violate the student's First Amendment rights?

Holding I: The United States District Court for the Western District of Pennsylvania held that the school district was in violation of the student's First Amendment rights.

Reasoning I: The court determined the school district was liable. The connection between off-campus conduct and disruption in the school environment was not clearly proven. Several cases, including *Killion v. Franklin Regional School District* (2001), conclude that school leaders do not have the authority to punish students for out-of-school speech. Layshock was awarded summary judgment on this claim and the defendant's cross-motion was denied.

Disposition: The United States District Court for the Western District of Pennsylvania granted summary judgment in part and denied in part for both parties.

Citation: *Madrid v. Anthony*, 510 F.Supp.2d 425 (S.D. Tex. 2007).

Key Facts: Students at Cypress Ridge High School staged a protest and a walk-out against immigration. The school had a history of racial tension. The principal had previously warned the students that participating would result in suspension. The students were also banned from wearing shirts that supported their protest. The students participating were suspended. Parents demanded an immediate meeting and were denied and asked to schedule appointments. They filed a suit claiming that their First Amendment Rights were violated. The defendants filed a motion for summary judgment.

Issue I: Did the school district violate the plaintiff's First Amendment rights?

Holding I: The United States District Court for the Southern District of Texas, Houston Division, held that there was no violation of First Amendment rights.

Reasoning I: The court decided that the district was not liable. There was no sufficient evidence to show that the district had a policy of violating student rights. The principal's actions

were implemented to maintain a safe environment for the students. The parents did not have a right to access the school. Therefore, their right to assembly was not violated.

Disposition: The United States District Court for the Southern District of Texas, Houston Division, granted the district's motion for summary judgment.

Citation: *Michael C. v. Gresbach*, 479 F.Supp.2d 914 (E.D. Wis. 2007).

Key Facts: A social worker responded to a report of possible child abuse. The social worker asked the principal to speak with two students privately. While interviewing the students the social worker proceeded to check the children for bruises under their clothes. No bruises were found. The parents filed a claim of violation of Fourth Amendment rights, unreasonable search, and seizure. The caseworker's motion for summary judgment was denied holding that the conduct did violate the children's Fourth Amendment rights.

Issue I: Did the caseworker violate the student's Fourth Amendment rights?

Holding I: The United States Court of Appeals, Seventh Circuit, held the district court's judgment that the caseworker did violate the student's Fourth Amendment rights.

Reasoning I: Gresbach did violate the student's Fourteenth Amendment rights by conducting the search. The search was deemed unlawful. The Fourth Amendment provides protection from unreasonable searches and seizures as established in *Doe v. Heck*, 327 F.3d 492, 509 (7th Cir. 2003).

Issue II: Did the defendant meet the reasonableness requirements for a summary judgment based on qualified immunity applied to the Fourth Amendment?

Holding II: The United States Court of Appeals, Seventh Circuit, held that the district court's judgment that the caseworker did violate the student's Fourth Amendment rights and did

not meet the reasonableness requirements for a summary judgment based on qualified immunity applied to the Fourth Amendment.

Reasoning II: Qualified immunity provides protection for government authorities sued for individual capacities of conduct. The defendant must establish that they are working within the scope of discretionary authority. The caseworker's duties did include checking under the student's clothes for bruises. The caseworker's actions were unlawful. The defendant, Gresbach, was not entitled to qualified immunity as established in *Anderson v. Creighton* (1987) and *Hope v. Pelzer* (2002).

Disposition: The United States Court of Appeals, Seventh Circuit, affirmed the judgment of the district court.

Citation: *Morse v. Frederick*, 127 U.S. 2618 (U.S. 2007).

Key Facts: During an event supervised by school personnel a student, Joseph Frederick, held up a banner saying "Bong Hits 4 Jesus." The principal, Morse, took the banner and suspended Frederick for 10 days. Morse stated that the banner violated school policy and promoted the use of illegal drugs. Frederick filed suit against the principal and school board for violation of his First Amendment rights. The district court ruled in favor of Morse finding no constitutional violations and found that Morse was entitled to qualified immunity. Frederick filed an appeal and The United States Court of Appeals, Ninth Circuit, reversed the district court's judgment. The Appellate Court found that schools could not prohibit free speech in the absence of evidence of substantial interference with discipline policies or the rights of others, applying *Tinker v. Des Moines Independent Community School District* (1969). Morse appealed the Appellate Court's decision and the United States Supreme Court reversed, finding no violation of Frederick's First Amendment rights.

Issue I: Did Principal Morse's actions violate Frederick's constitutional rights?

Holding I: The Supreme Court of the United States reversed the district court's judgment, finding that Morse's actions did not violate the student's First Amendment rights.

Reasoning I: Frederick was suspended from school for speech that promoted illegal drug use. Schools have the discretion to take steps to safeguard speech that can be regarded as encouraging illegal drug use, according to *Hazelwood* (1988). The rights of adults in general settings are not parallel with students in public school settings, applying *Bethel School District No. 402 v. Frasier* (1986). Therefore, the principal's actions did not violate Frederick's First Amendment rights to free speech.

Issue II: Was Morse entitled to qualified immunity?

Holding II: The Supreme Court of the United States reversed the United States Court of Appeals, Ninth Circuit, judgment, finding that the reasonableness standard did apply to Principal Morse's actions of confiscating the banner and suspending Frederick.

Reasoning II: Qualified immunity provides protection for government authorities sued for individual capacities of conduct. The defendant must establish that they are working within the scope of discretionary authority. The principal's actions restricting the student's speech was reasonable and lawful due to it promoting illegal drug use. Morse was entitled to qualified immunity, as established in *Harlow v. Fitzgerald* (1982).

Disposition: The Supreme Court of the United States reversed the judgment of the district court and remanded the action for further proceedings.

Citation: *Nguon v. Wolf*, 517 F. Supp.2d 1177, 226 (C.D. Cal. 2007).

Key Facts: Two female students, Charlene and Trang, were disciplined after several warnings for inappropriate public displays of affection (IPDA) at Santiago High School. The

students at Santiago High School understood IPDA to include kissing excessively, making out, laying on top of each other, or groping. Charlene was warned three times for IPDA before being disciplined for excessive and long kissing. The third reported incident resulted in the principal, Wolf, imposing a 1-day suspension. After the sixth reported incident, the students received a 3-day suspension. During the second suspension, Wolf met with Charlene's mother and suggested changing schools. Her mother agreed and Wolf made arrangements for Charlene to transfer to another school in the district. Charlene Nguon and her mother filed a suit against the school claiming violations against the student's rights to equal protection, privacy, and First Amendment Rights.

Issue I: Was Nguon's First Amendment rights violated by the alleged discriminatory discipline imposed?

Holding I: The United States Court for the Central District of California held that the school did violate the student's First Amendment rights.

Reasoning I: The court held that the imposed discipline did not violate the student's First Amendment rights. The disciplinary actions were not proven to be discriminatory nor revealing of deliberate indifference of same sex couples. The court found that the sole motivation for discipline was to maintain a proper school environment. As established in *Hazelwood*, schools are not required to tolerate school speech or behavior that is inconsistent with their outlined educational mission (*Hazelwood School District v. Kuhlmeier*, 1988).

Issue II: Was the principal, Wolf, entitled to qualified immunity for violating Nguon's privacy in revealing her sexual orientation to her parents?

Holding II: The United States Court for the Central District of California held that Wolf was entitled to qualified immunity.

Reasoning II: The court held that Charlene had a reasonable expectation of privacy at home concerning her sexual orientation. However, the right to privacy is not absolute. The Education Code Section 48900 requires principals to notify parents of suspension and allegations of misconduct, qualifying Wolf for discretionary immunity. Therefore, Wolf was carrying out his statutory duties in disclosing the student's sexual orientation and did not violate Nguon's privacy under the California Constitution.

Disposition: The United States Court for the Central District of California found in favor of the school officials.

Citation: *Wilson ex. rel. Adams v. Cahokia School District No. 187*, 470 F.Supp.2d 897 (S.D. Ill. 2007).

Key Facts: A sixth grade student, Teniesha Adams, at Wirth/Parks Middle School reported an incident of sexual assault by a classmate, Craig Nichols. The alleged assault took place after regular school hours. Adams immediately reported the incident to Prince, the school principal. The principal reported the incident to the school's resource officer, Cotton, who investigated the incident. Wilson, mother of the student stated that she did not want the student interviewed by Cotton without her knowledge. Cotton retrieved Adams from class the following morning to question her and have her examined by a female employee. Wilson asked Cotton to discontinue the interview and he declined. Wilson filed suit against the school district and employees involved for violation of Fourth Amendment rights.

Issue I: Did the school or school district violate the student's constitutional rights, including false imprisonment?

Holding I: The United States Court for the Southern District of Illinois held that neither the principal nor the school violated Adam's Fourth and Fourteenth Amendment rights.

Reasoning I: The interview conducted by the resource officer and the female employee met the reasonableness standard and did not violate the student's Fourth Amendment rights. The interview was justified to investigate the alleged assault. Schools are not required by the constitution to protect students from sexual abuse (*J.O v. Alton Community Unit District 11*, 1990). Parents continue to maintain primary responsibility for their children in school settings. The school was not negligent in protecting Adams and justified in interviewing and searching the student. Therefore, neither Due Process nor Fourteenth Amendment violations apply. Adam's claims of false imprisonment were dismissed with prejudice.

Issue II: Was the school entitled to summary judgment?

Holding II: The United States Court for the Southern District of Illinois held that the reasonableness standard applied to the resource officer in questioning the student.

Reasoning II: Qualified immunity provides protection for government authorities sued for individual capacities of conduct. The defendants must establish that they are working within the scope of discretionary authority. The resource officer's duties did include questioning and detaining Adams as established in *State v. Whorley* (1998).

Disposition: The United States Court for the Southern District of Illinois granted the school's motion for summary judgment and dismissed the claims with prejudice.

Citation: *Doninger v. Niehoff*, 527 F.3d 41 (Conn. Ct. App. 2008).

Key Facts: High school student and Junior Class secretary Avery Doninger was involved in a controversy surrounding the planning of "Jamfest." The students were notified that the event would need to be moved from the auditorium to the cafeteria or the date would need to be changed. The students were outraged and Doninger, along with four other Student Council members, decided to take action in alerting the community. The students used one of their

parent's accounts to send a message to numerous community members asking for support and urging them to contact the superintendent. In addition, Doninger made some disrespectful comments concerning the school administrator and the superintendent. After an influx of calls, the event was rescheduled. However, Doninger was prevented from running for Senior Class Secretary due to failure to display conduct and civility expected of a class officer.

Issue I: Did school administrators violate the student's First Amendment rights by preventing her from running for Senior Class Secretary and prohibiting the wearing of a controversial t-shirt at the school assembly?

Holding I: The United States Court of Appeals, Second Circuit held that Doninger failed to provide sufficient evidence that school administrators violated her First Amendment rights by preventing her from running for Senior Class Secretary or prohibiting the wearing of controversial t-shirts at the school assembly.

Reasoning I: The school administrators were within their authority in applying disciplinary actions. In addition, they were entitled to qualified immunity in reference to violating First Amendment claims by Doninger. According to *Tinker v. Des Moines Independent Community School District* (1969), schools have the responsibility in educating students on the boundaries of appropriate social behavior. *Bethel School District No. 403 v. Fraser* (1986) held that educators are entitled to exercise control over all school activities.

Disposition: The United States Court of Appeals, Second Circuit, affirmed the district court's judgment in support of the school administration.

Citation: *S.E. v. Grant County Board of Education*, 544 F.3d 633 (Ky. Ct. App. 2008).

Key Facts: Seventh grade student A.E. was disciplined for sharing medication with another student. A.E. suffered from attention deficit hyperactivity (ADHD) and bi-polar disorder.

The student was on medication that was kept in the nurse's office and the remaining medicine was given to the student on the last day of school. The student was pressured to share her medication with another student. When the student's parents found out about the incident they filed a complaint. The principal interviewed both students upon returning for the first day of school. The principal suspended the students for 1 day and obtained a written confession that was provided to Osborne, the school resource officer. Osborne contacted the juvenile court and A.E. was charged with a violation of trafficking. A.E. satisfied a diversion contract and the violation was diverted and dismissed. A.E. and her mother later filed suit claiming the events caused severe emotional distress and physical problems.

Issue I: Did the school violate the student's Fourth or Fifth Amendment rights?

Holding I: The United States Court of Appeals, Sixth Circuit, held that the school did not violate A.E.'s constitutional rights.

Reasoning I: A.E.'s parents claimed that her Fourth and Fifth Amendments were violated by interviewing the student regarding the incident and taking a written confession that was incriminating. *Heck v. Humphreys* (1994) cited that the plaintiff must prove that the conviction was reversed, expunged, invalid, or in question by the federal court to recover damages. A.E.'s agreement to enter the diversion program does not support challenging the investigation or suing those involved. Therefore, the court held that the school did not violate A.E.'s constitutional rights.

Disposition: The United States Court of Appeals, Sixth Circuit, affirmed the district court's judgment in favor of the defendants.

Citation: *S.S. v. Eastern Kentucky University*, 532 F.3d 445 (Ky. Ct. App. 2008).

Key Facts: S.S. a student at Model Laboratory Middle School had multiple disabilities. The student was involved in a number of both verbal and physical altercations. S.S. claimed that he was being harassed by some of the other students. The school investigated the claim and found that S.S. was responsible for initiating some incidents. The school administrators continued to monitor S.S. and disciplined students as they deemed appropriate. The parents later filed suit against the director and psychologist claiming discrimination based on disability.

Issue II: Did the defendants, Model, meet the standards for qualified immunity and were they entitled to summary judgment?

Holding I: The United States Court of Appeals, Sixth Circuit, held that the school did not knowingly violate S.S.'s constitutional rights and were entitled to qualified immunity.

Reasoning I: S.S. made claims of discrimination and harassment. Defendants are required to prove that their actions were within the scope of their discretionary authority. Then, the burden falls to the plaintiff to prove that the defendant's actions were in bad faith or outside their scope of authority, as established in *Harlow v. Fitzgerald* (1982). As a result, the plaintiff failed to produce evidence to support that their rights were violated. The court analyzed Section 504 and ADA claims and determined that Model was protected by qualified immunity and granted summary judgment.

Disposition: The United States Court of Appeals, Sixth Circuit, affirmed the district court's judgment in favor of the defendants.

Citation: *Vassallo v. Lando*, 591 F. Supp. 2d 172, (E.D.N.Y. 2008).

Key Facts: A Caucasian high school student, Vassallo, was searched after a fire was set at Valley Stream South Junior/Senior High School. Vassallo was seen fleeing from the area where the fire was set shortly after the alarm sounded. The principal began searching his belongings

and found evidence that suggested marijuana use. Vassallo claimed that the search violated his equal protection and Fourth Amendment rights. The defendants submitted a motion for summary judgment.

Issue I: Were the defendants entitled to summary judgment based on qualified immunity?

Holding I: The United States District Court for the Eastern District of New York held that the defendants were entitled to summary judgment based on qualified immunity.

Reasoning I: Qualified immunity provides protection for government authorities sued for individual capacities of conduct. The defendants must establish that they are working within the scope of discretionary authority. Then, the burden falls to the plaintiff to prove that the defendants' actions were in bad faith or outside their scope of authority, as established in *Harlow v. Fitzgerald* (1982). As a result, the plaintiff failed to produce evidence to support that his rights were violated.

Disposition: The United States District Court for the Eastern District of New York granted the defendants' motion for summary judgment.

Citation: *Bryant v. Board of Education*, 347 Fed. Appx. (Ill. Ct. App. 2009).

Key Facts: High school freshman Bryant accused his school administration for singling him out for not being prepared for class, disrupting class, wearing his pants too low, and encouraging a fight. In addition, he was suspended from the football team for failure to meet residency requirements. His father filed a suit against the school system for racial discrimination.

Issue I: Did Bryant provide sufficient evidence to support his claims of racial discrimination?

Holding I: The United States Court of Appeals, Seventh Circuit, held the district court's granting of summary judgment due to Bryant's failure to provide evidence of intentional discrimination in establishing his Title IV claim.

Reasoning I: Bryant's claims were not properly supported based on the evidence brought before the court. He failed to identify a genuine issue with material facts of discrimination. There was a lack of evidence to support intentional discrimination in his Title VI claim as supported in *Alexander v. Sandoval* (2001).

Disposition: The United States Court of Appeals, Seventh Circuit, affirmed the district court's summary judgment in support of the school administration.

Citation: *Corales v. Bennett*, 567 F.3d 554 (Cal. Ct. App. 2009).

Key Facts: Three middle school students left the school campus to participate in an immigration reform protest without permission. The school administrator gave the students a stern lecture about the consequences of truancy and punished them by taking away the privilege of an end-of-the-year activity. One of the middle school students committed suicide that day. Two of the parents chose to file a suit claiming violations of civil rights and intentional infliction of emotional distress. The district court granted summary judgment in favor of the defendants and the plaintiffs filed an appeal.

Issue I: Did the district court properly grant the defendants' motion for summary judgment?

Holding I: The United States Court of Appeals, Ninth Circuit, held that the district court did properly grant the defendants' request for summary judgment.

Reasoning I: When reviewing a motion for summary judgment, the party making the request must show that no genuine issues of material fact are present. The court must review

information and focus in a light most favorable to the opposing or non-moving party (*Beck v. City of Upland* (2008)). When the party requesting summary judgment provides sufficient evidence to support their claim, the opposing party must show that genuine issues of material fact are present. The school administrator did not violate the students' constitutional rights and no evidence was provided to show that the administrator's intent was to harm the students. The consequences of truancy were clearly outlined in the school's handbook. School officials must protect the safety of students, as in *LaVine v. Blaine School Dist.* (2001).

Disposition: The United States Court of Appeals, Ninth Circuit, affirmed the judgment of the district court.

Citation: *Corder v. Lewis Palmer School District No. 38*, 566 F.3d 1219 (Colo. Ct. App. 2009).

Key Facts: Corder, a high school student, was selected as one of the school's 15 valedictorians. Each valedictorian was allowed to give a brief preapproved speech at graduation. Corder chose to deliver another speech that included religion and was not approved by administration. Corder was told that she would not receive her diploma until she publicly apologized for her speech. The student did not apologize, but wrote a statement explaining her actions. The school district did not have a written policy requiring all speeches or student expression to be reviewed for approval. Corder filed suit claiming violation of her First and Fourteenth Amendment rights. The school district filed a motion for summary judgment. Motion for summary judgment was granted by the district court and Corder appealed.

Issue I: Did the district court properly grant the defendants' motion for summary judgment?

Holding I: The United States Court of Appeals, Tenth Circuit, held that the district court did properly grant the defendants' request for summary judgment.

Reasoning I: When reviewing a motion for summary judgment, the party making the request must show that no genuine issues of material fact are present. The court must review information and focus in a light most favorable to the opposing or non-moving party (*Beck v. City of Upland* (2008)). When the party requesting summary judgment provides sufficient evidence to support their claim, the opposing party must show that genuine issues of material fact are present. The school administrator did not violate the student's constitutional rights by requiring a review of speeches before they were publically presented. Educators are entitled to exercise control over student expression related to school sponsored activities. *Morse v. Frederick* (2007) affirmed that schools have the authority to regulate student expression in a school setting that would not be censored outside of the school environment.

Disposition: The United States Court of Appeals, Tenth Circuit, affirmed the judgment of the district court.

Citation: *Halladay ex rel. A.H. v. Wenatchee School District*, 598 F.Supp.2d 1169 (E.D. Wash. 2009).

Key Facts: A fifth grade student threatened to kill a student after being hit in the face with a snowball at recess. The principal emergency expelled the student. A few hours later the principal chose to reduce the emergency expulsion to a 1-day suspension for the rest of the school day. The student only missed between 4 and 5 hours of school. The parents filed a suit against the principal and the school district claiming violation of due process rights and failure to protect the student from harassment and bullying.

Issue I: Did school administrators violate the student's due process right by enforcing emergency suspension?

Holding I: The court found that due process was not violated by school administration.

Reasoning I: Parents were provided with notice of the student's violation and provided the opportunity to be heard as required by due process procedures for suspensions less than 10 days. This procedure was held in *Goss v. Lopez* (1975), and the plaintiff was provided with notice of his violation along with the opportunity to be heard. Therefore, the plaintiff was unable to establish a due process violation.

Issue II: Were school administrators negligent in providing protection from harassment and bullying?

Holding II: The plaintiff failed to provide evidence of bullying or harassment and did not prove that the school failed to provide reasonable care.

Reasoning II: The plaintiff must prove a case of negligence by providing sufficient evidence that (1) an injury occurred, (2) the defendant was owed a duty by the plaintiff, (3) the duty was breached, and (4) there is a relationship between the breach and the injury as noted in *Travis v. Bohannon* (2005). Schools have the duty to provide a reasonable standard of care. However, the plaintiff was not able to establish that he was at risk or within a general field of danger where wrongful activities are foreseeable. The students were provided adequate supervision and there were no facts that support a breach of duty. In addition, the school system had a right to suspend the plaintiff for his actions as noted in *Jachetta v. Warden Joint Consolidated School District* (2008). The plaintiff was unable to provide proof of any constitutional or negligence claims. Disposition: The United States District Court, Eastern

District of Washington, dismissed the plaintiff's complaint with prejudice and granted the defendant's motion for summary judgment.

Citation: *Brown ex rel. Brown v. Cabell County Board of Education*, 714 F. Supp. 2d 587 (S.D. W.Va. 2010).

Key Facts: High school student Anthony Brown wrote the words "Free A-Train" on his hands. This slogan is in reference to Anthony Jennings, "A-Train," who is facing criminal charges for shooting a police officer. A policy was in place banning the slogan to prevent disruption and ensure student safety. Brown refused to wash the slogan from his hands and was suspended for 10 days. Brown's father filed suit against the school administration for violation of his son's First and Fourteenth Amendment rights, seeking compensatory damages, attorney fees, and expungement of suspension.

Issue I: Is the school system entitled to summary judgment in reference to Brown's claims of his First and Fourteenth Amendment rights' violations by requesting removal of the slogan from his hands, warranting a compensatory damages, attorney fees, and expungement of suspension?

Holding I: The United States District Court, Southern District of West Virginia, found that the school system did not infringe on the student's rights and granted the defendant's motion for summary judgment.

Reasoning I: Brown's actions could have potentially led to further disruption based on past experiences. As outlined in *Hardwick* (2010), courts allow school administrators to reference past racial incidents to avoid future disruption.

Disposition: The United States District Court, Southern District of West Virginia, granted the defendant's motion for summary judgment.

Citation: *J.S. ex rel. Snyder v. Blue Mountain School Dist.*, 593 F.3d 286 (Pa. Ct. App. 2010).

Key Facts: An eighth grade student, J.S., created an offensive profile on a social networking site imitating her school principal. The profile was intended to make fun of the principal and contained profane language and sexually explicit content. J.S. also posted a picture that she took off of the school district website. J.S. was upset with the principal for disciplining her for dress code violations. When the principal asked J.S. about creating the profile she initially denied it. She later confessed and the principal proceeded to contact her parents. She was suspended for 10 days and prohibited from attending school dances. J.S. and her mother both apologized and J.S. also wrote a letter of apology. The website was removed. However, the principal proceeded to contact authorities. He filed a formal report but decided not to press criminal charges. The officer planned to contact the student and her parents regarding the seriousness of the actions. The parents filed a suit claiming violations of First and Fourteenth Amendment due process rights and overbroad or void-for-vagueness policies. The district court granted the motion of summary judgment and the plaintiff appealed.

Issue I: Did the district court properly apply summary judgment to the defendants in relation to violating the plaintiff's first amendment rights, the district's policies being unconstitutionally vague and overbroad, and the Snyders' parental rights?

Holding I: The United States Court of Appeals, Third Circuit, held that the district court did not properly grant the defendant's request for summary judgment due to the district's actions violating J.S.'s First Amendment free speech rights and reversed and remanded that aspect of the District Court's judgment accordingly.

Reasoning I: J.S. was suspended from school for speech that indisputably caused no substantial disruption in school and that could not reasonably have led school officials to forecast substantial disruption in school. The facts do not support substantial disruption or material interference in school applying *Tinker* (1969). Therefore, the district's actions violated J.S.'s First Amendment rights to free speech.

Holding II: The United States Court of Appeals, Third Circuit, held that the district court's judgment that the school's policies were not overbroad or void-for-vagueness, and that the school district did not violate the Snyders' Fourteenth Amendment substantive due process rights.

Reasoning II: J.S.'s suspension did not violate her Fourteenth Amendment rights. The school administration did not err in disciplining J.S. The student's actions were not exclusively personal to home activities. Therefore, parental rights were not violated by the school's implementation of discipline and summary judgment was properly granted to the defendants.

When reviewing a motion for summary judgment, the party making the request must show that no genuine issues of material fact are present. The court must review information and focus in a light most favorable to the opposing or non-moving party. (*Peterson v. Baker*, 2007; *Beck v. City of Upland*, 2008). When the party requesting summary judgment provides sufficient evidence to support their claim, the opposing party must show that genuine issues of material fact are present.

Disposition: The United States Court of Appeals, Third Circuit, reversed and remanded in part and affirmed in part.

Citation: *Mardis v. Hannibal Public school Dist.*, 684 F.Supp.2d 1114 (E.D. Mo. 2010).

Key Facts: Mardis, a high school sophomore, made threats via instant messaging to one of his classmates to get a gun and kill another classmate. The classmate shared the information with authorities and Mardis was arrested and admitted to a psychiatric facility and sent to juvenile detention after release. The district originally suspended the student for 10 days and the superintendent later extended the suspension until the end of the year. The student filed a claim that the suspension was a violation of his First Amendment rights.

Issue I: Did the student suspension violate his First Amendment rights in treating his actions as a school speech case?

Holding I: The court held that the school administration was reasonable in applying school speech law even if the communication took place off school grounds.

Reasoning I: The student's First Amendment claim was dismissed due to failure to state a claim. The plaintiff's communications through instant messaging constitutes a true threat and is not protected by the First Amendment. The school administration was reasonable in applying school speech law even if the communication took place off school grounds, as in *Doe v. Pulaski County Special School District* (2001) and *Tinker v. Des Moines* (1969). The court concluded that a reasonable person would view the plaintiff's threatening speech as a true threat and the school administrators were not in violation of the plaintiff's First Amendment rights by enforcing the suspension.

Disposition: The United States District Court, Eastern District of Missouri, dismissed the plaintiff's complaint and granted the defendant's motion for summary judgment.

Citation: *T.W. ex rel. Wilson v. School Bd. of Seminole County, Fla.*, 610 F.3d 588 (Fla. Ct. App. 2010).

Key Facts: T.W., an autistic middle school student made claims of verbal and physical abuse by his teacher, Garrett. Several incidents were listed of the teacher physically restraining him, calling him names, using profanity, and aggravating his developmental disability. The parents of T.W. filed suit claiming violations of the Fourteenth Amendment, due process, and unreasonable force. The defendants filed a motion for summary judgment. The district court granted the motion for summary judgment in favor of the defendant. T.W. filed an appeal in response.

Issue I: Did the district court properly grant the defendant's motion for summary judgment?

Holding I: The United States Court of Appeals, Eleventh Circuit, held that the district court did properly grant the defendant's request for summary judgment.

Reasoning I: When reviewing a motion for summary judgment, the party making the request must show that no genuine issues of material fact are present. The court must review information and focus in a light most favorable to the opposing or non-moving party, T.W. (*Peterson v. Baker*, 2007; *Beck v. City of Upland*, 2008). When the party requesting summary judgment provides sufficient evidence to support their claim, the opposing party must show that genuine issues of material fact are present. There is evidence that the teacher's troubling actions did aggravate the student's developmental disabilities. However, no evidence is present to prove that the student suffered from serious injury due to the actions of the teacher. Therefore, the school did not violate the student's constitutional rights and summary judgment was granted in favor of the defendants.

Disposition: The United States Court of Appeals, Eleventh Circuit, affirmed the judgment of the district court.

Citation: *Lopera v. Town of Coventry*, 652 F. Supp. 2d 203 (Ct. App. 2011).

Key Facts: A high school soccer team was accused of stealing out of the locker room after a game. The team was searched by the coach and later searched by the police with the consent of the coach. The search was conducted outside the bus in the presence of an angry crowd yelling racial profanities. The stolen items were not found and the police provided an escort for the team out of the town. The players filed suit against the town and the officers on violations of Fourth and Fourteenth Amendment rights, invasion of privacy, racial profiling, and harassment. The defendants were granted summary judgment on all counts and the players appealed the district court's decision.

Issue I: Were the officers entitled to qualified immunity for the Fourth Amendment and privacy claims?

Holding I: The United States Court of Appeals, First Circuit, held that the officers did meet the requirements of qualified immunity.

Reasoning I: Qualified immunity, as outlined in *Pearson v. Callahan* (2009), provides protection for government officials from civil and liability damages for conduct that does not violate constitutional rights. Qualified immunity is warranted if the officer's actions are reasonable under the terms of the law as noted in *Olmeda v. Ortíz-Quiñonez* (2006).

Issue II: Were the officer's actions in receiving consent from the coach racially motivated, intimidating, and discriminatory violating the Equal Protection clause?

Holding II: The United States Court of Appeals, First Circuit, held that the officers were not in violation of the players' equal protection rights.

Reasoning II: Under *United States v. Vanvliet* (2008), the Fourth Amendment, consent for a search, cannot be coerced. Intimidation, covert force, or a threat of any kind will alter the

validity of the process (*Schneckloth v. Bustamonte*, 1973)). The action must be lawful to fall under qualified immunity. The players were unable to prove a difference or purposeful discrimination in treatment under the Equal Protection clause (*Macone v. Town of Wakefield*, 2002).

Disposition: The United States Court of Appeals, First Circuit affirmed the judgment of the district court.

Case Analysis

The purpose of this research was to examine areas of litigation related to student misconduct and discipline, to provide educators with relevant information. The data were retrieved by analyzing relevant court cases from 1982 through 2011 (see Table 1). In order to determine the patterns and trends of these court decisions, the cases were sorted by the year in which they were decided. Cases were then reviewed to determine trends and issues and divided into various categories. This information was then analyzed to develop guidelines and principles for administrators.

Table 1

Case Law 1982-2011 by Year

Year	Case Name
1981	<i>Diggles v. Corsicana Independent School Dist.</i>
1981	<i>Stern v. New Haven Community Schools</i>
1981	<i>Dodd v. Rambis</i>
1982	<i>Horton v. Goose Creek Independent School Dist.</i>
1982	<i>Boynton v. Casey</i>
1984	<i>Bernstein v. Menard</i>
1984	<i>Tarter v. Raybuck</i>
1984	<i>Pollnow v. Glennon</i>
1985	<i>Martens By and Through Martens v. District No. 220, Board Of Education</i>
1985	<i>New Jersey v. T.L.O.</i>
1986	<i>Doe by Gonzales v. Maher</i>
1988	<i>Hazelwood School Dist.v. Kuhlmeier</i>
1988	<i>Crosby by Crosby v. Holsinger</i>
1989	<i>Rivera v. East Otero School Dist. R-1</i>
1989	<i>Poling v. Murphy</i>
1989	<i>Edwards For & in Behalf of Edwards v. Rees</i>
1990	<i>Carey of Behalf of Carey v. Maine School Administrative Dist. No. 17</i>
1990	<i>Bull by Bull v. Dardanelle Public School Dist. No. 15</i>
1991	<i>Salazar v. Luty</i>
1993	<i>Wiemerslage Through Wiemerslage v. Maine Tp. H.S. Dist. 207</i>
1993	<i>Alabama and Coushatta Tribes of Texas v. Trustees of Big Sandy Independent School Dist.</i>
1993	<i>Jeglin By & Through Jeglin v. San Jacinto Unified School Dist.</i>
1995	<i>Vernonia School Dist. 47J v. Action</i>
1995	<i>Wallace by Wallace v. Batavia School Dist. 101</i>
1995	<i>Hassan v. Lubbock Independent School Dist.</i>
1996	<i>Harris by Tucker v. County of Forsyth</i>
1996	<i>Heller v. Hodgkin</i>
1996	<i>Seamons v. Snow</i>
1996	<i>Jackson v. Katy Independent School Dist.</i>
1996	<i>Rasmus v. State of Ariz.</i>
1997	<i>Kicklighter v. Evans County School Dist.</i>
1997	<i>Bills by Bills v. Homer Consol. School Dist. No. 33-C</i>
1998	<i>Pirschel v. Sorrell</i>
1999	<i>Achman v. Chicago Lakes Independent School Dist. No. 2144</i>

(table continues)

Year	Case Name
1999	<i>Jensen v. Reeves</i>
1999	<i>Kurilla v. Callahan</i>
1999	<i>London v. Directors of DeWitt</i>
1999	<i>Henerey ex rel. Henerey v. City of St. Charles, School Dist.</i>
1999	<i>Higginbottom ex. rel. Davis v. Keithley</i>
2000	<i>Hammock ex rel Hammock v. Keys</i>
2000	<i>Fuller v. Decatur Public School Bd. of Educ. School Dist. 61</i>
2000	<i>West v. Derby Unified School Dist. No. 260</i>
2000	<i>Riggan v. Midland Independent School Dist.</i>
2000	<i>Rabideau v. Beckmantown Cent. School Dist.</i>
2001	<i>Gottlieb ex rel. Calabria v. Laurel Highlands School Dist.</i>
2001	<i>Brian A. ex rel. Aurthur A. v. Strou- dsburg Area School Dist</i>
2001	<i>Butler v. Oak Creek-Franklin School Dist.</i>
2002	<i>Coy ex rel. Coy v. Board of Educ. of North Canton City Schools</i>
2002	<i>Johnson v. Collins</i>
2004	<i>Porter ex rel. LaBlanc v. Ascension Parish School Bd.</i>
2004	<i>Holloman ex. Rel. Holloman v. Harland</i>
2004	<i>Wofford v. Evans</i>
2005	<i>Posthumus v. Board of Educ. of Mona Shores Public Schools</i>
2005	<i>Bravo ex rel. Ramirez v. Hsu</i>
2005	<i>Daniels v. Lutz</i>
2005	<i>Cohn v. New Paltz Central School Dist.,</i>
2006	<i>Pace v. Talley</i>
2006	<i>Burreson v. Barneveld School Dist.</i>
2006	<i>Gray ex rel. Alexander v. Bostic</i>
2006	<i>Pinard v. Clatskanie School Dist. 6J</i>
2006	<i>Ponce v. Socorro Independent School Dist.</i>
2007	<i>Nguon v. Wolf</i>
2007	<i>Boim v. Fulton County School Dist.</i>
2007	<i>Mardid v. Anthony</i>
2007	<i>Morse v. Frederick</i>
2007	<i>Layshock v. Hermitage School Dist.</i>
2008	<i>S.S. v. Eastern Kentucky University</i>
2008	<i>Doninger v. Niehoff</i>
2008	<i>S.E. v. Grant County Bd. Of Educ.</i>
2008	<i>Vassallo v. Lando</i>
2009	<i>Bryant v. Board of Educ., Dist. 228</i>
2009	<i>Halladay ex rel. A.H. v. Wenatchee School Dist.</i>
2009	<i>Corder v. Lewis Palmer School District. No. 38.</i>

(table continues)

Year	Case Name
2009	<i>Corales v. Bennett</i>
2010	<i>T.W. ex rel. Wilson v. School Bd. Of Seminole County</i>
2010	<i>Mardis v. Hannibal Public School Dist.</i>
2010	<i>Brown ex rel. Brown v. Cabell County Bd. of Educ.</i>
2010	<i>J.S. ex rel. Snyder v. Blue Mountain School Dist</i>
2011	<i>Lopera v. Town of Coventry</i>

Judicial Authority

The American judicial system is composed of both state and federal courts. State court systems establish their basis under state constitutional provisions. Federal court systems extend their basis through the United States Constitution. The federal court system functions as a separate and independent branch of the U.S. Government. A case must raise a federal question to hold standing in a federal court. The majority of education litigation involved in these cases alleged federal violations of Constitutional Amendments, primarily First, Fourth, Fifth, or Fourteenth (see Figure 1).

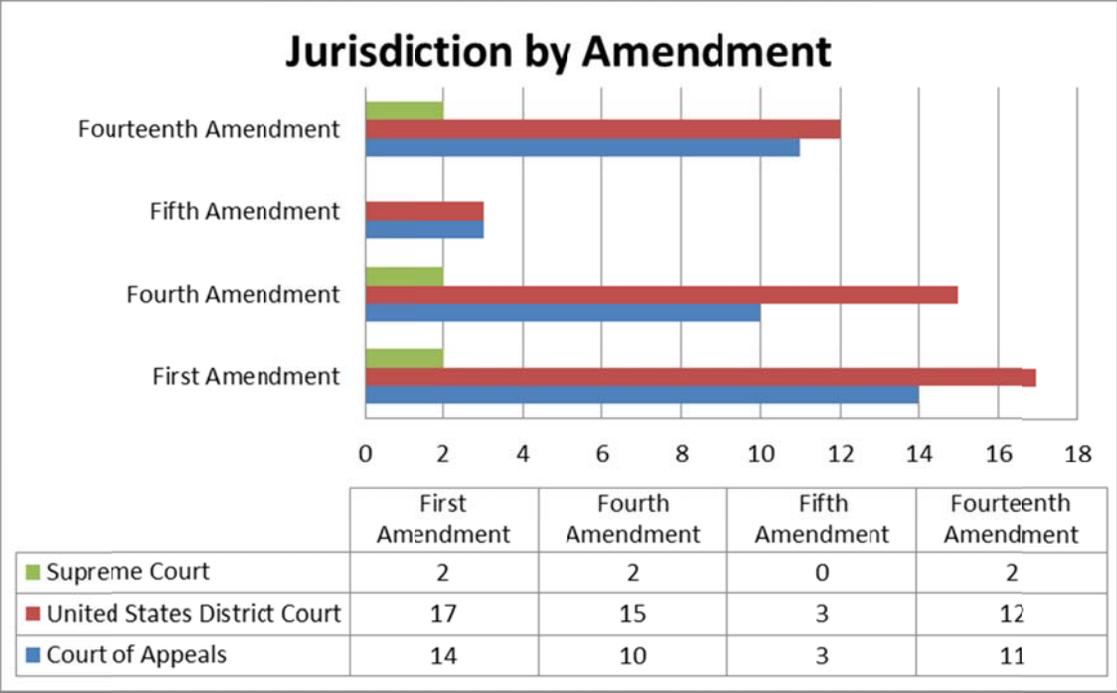


Figure 1. Jurisdiction by amendment.

In examining case law, the value of a judgment or decision is determined by the authority of the court issuing the ruling. The United States Supreme Court is the highest court in the federal system. Decisions rendered in the Supreme Court are final with no option for appeal. The Courts of Appeal function to review appealed cases of the district courts. The decision of a case heard by a Court of Appeal is binding over the lower district courts in its jurisdiction. The district court is the lowest and original jurisdiction of the federal system. Each state has a minimum of one district court divided into multiple divisions.

Cases from varying levels of the federal court system were identified for the completion of this study. The courts represented in this study included the United States Supreme Court, United States Courts of Appeal, and United States District Courts (see Figure 2). A total of 69 of the 115 cases were held in United States District Courts (see Table 2). An additional 42 cases

were heard in the United States Courts of Appeal (see Table 3). Four court cases were heard in the highest court, the United States Supreme Court (see Table 4).

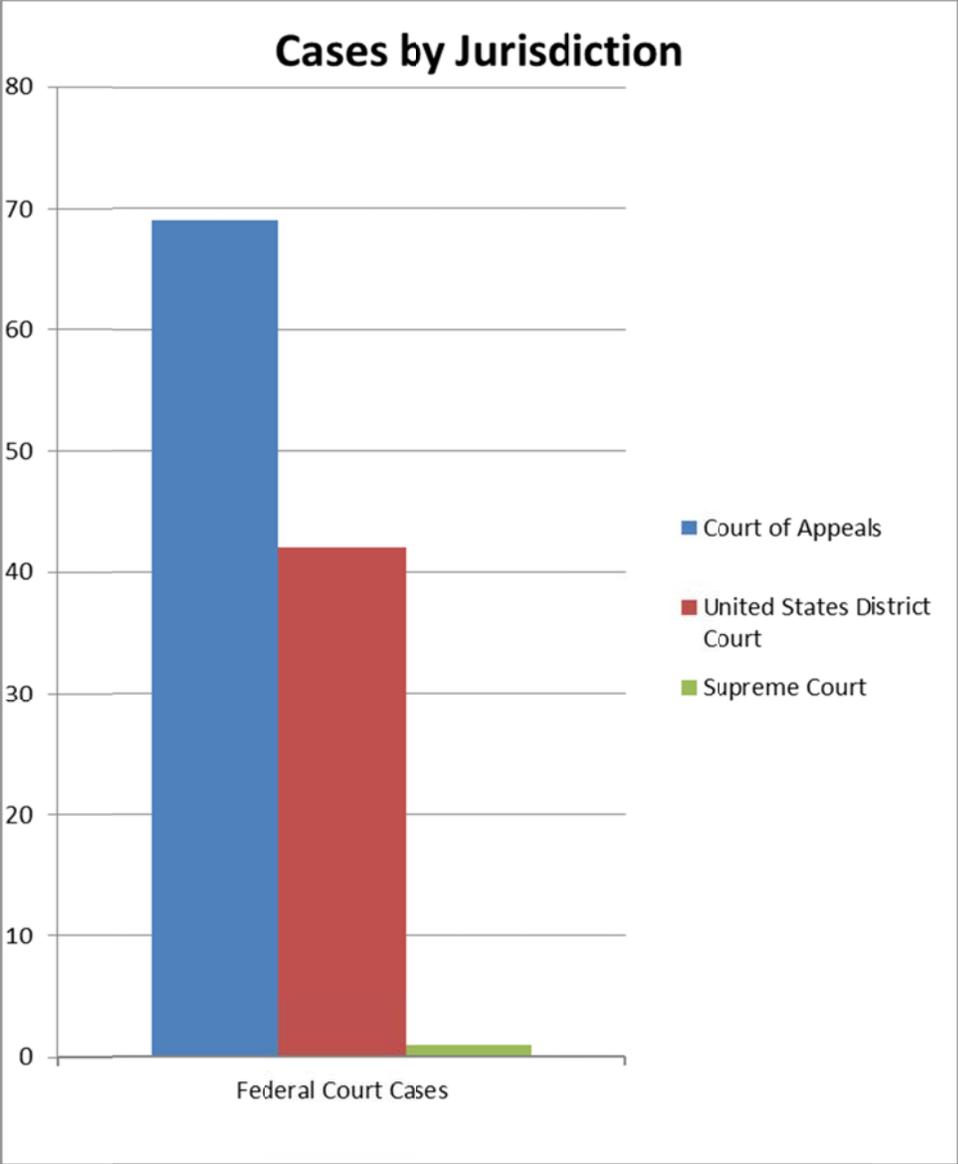


Figure 2. Cases by jurisdiction.

Table 2

Case Law 1982-2011: Jurisdiction (Federal District)

Year	Case Name	Court
1981	<i>Diggles v. Corsicana Independent School Dist.</i>	N.D.Tex.
1981	<i>Dodd v. Rambis</i>	S.D. Ind.
1981	<i>Stern v. New Haven Community Schools</i>	E.D. Mich.
1982	<i>Boynton v. Casey</i>	D. Me.
1984	<i>Pollnow v. Glennon</i>	S.D.N.Y.
1985	<i>Martens By and Through Martens v. District No. 220, Board Of Education</i>	N.D. Ill.
1989	<i>*Nelson v. Moline School Dist. No. 40</i>	C.D. Ill.
1989	<i>Rivera v. East Otero School Dist. R-1</i>	D. Colo.
1989	<i>*Romano v. Harrington</i>	E.D.N.Y.
1990	<i>Bull by Bull v. Dardanelle Public School Dist. No. 15</i>	E.D. Ark.
1990	<i>Carey of Behalf of Carey v. Maine School Administrative Dist. No. 17</i>	D. Me.
1991	<i>*Hemry by Hemry v. School Bd. Of Colorado Springs School Dist. No. 11.</i>	D. Colo.
1991	<i>Salazar v. Luty</i>	S.D. Tex.
1992	<i>*Clark v. Dallas Independent School Dist.</i>	N.D. Tex.
1993	<i>Alabama and Coushatta Tribes of Texas v. Trustees of Big Sandy Independent School Dist.</i>	E.D. Tex.
1993	<i>Jeglin By & Through Jeglin v. San Jacinto Unified School Dist.</i>	C.D. Cal.
1993	<i>Wiemerslage Through Wiemerslage v. Maine Tp. H.S. Dist. 207</i>	N.D. Ill.
1994	<i>*Engele v. Independent School Dist. No. 91</i>	D. Minn.
1995	<i>Hsu By and Through Hsu v. Roslyn Union Free School Dist. No. 3</i>	E.D.N.Y.
1996	<i>Harris by Tucker v. County of Forsyth</i>	M.D. N.C.
1996	<i>Heller v. Hodgin</i>	S.D. Ind.
1996	<i>Jackson v. Katy Independent School Dist.</i>	S.D. Tex.
1996	<i>Rasmus v. State of Ariz.</i>	D. Ariz.
1997	<i>Bills by Bills v. Homer Consol. School Dist. No. 33-C</i>	N.D. Ill.
1997	<i>*Grendell v. Gillway</i>	D. Me.
1997	<i>Kicklighter v. Evans County School Dist.</i>	S.D. Ga.
1998	<i>*Carroll K. v. Fayette County Bd. of Educ.</i>	S.D. W. Va.
1998	<i>Pirschel v. Sorrell</i>	E.D. Ky.
1999	<i>Achman v. Chicago Lakes Independent School Dist. No. 2144</i>	D. Minn.
1999	<i>Higginbottom ex. rel. Davis v. Keithley</i>	S.D. Ind.
1999	<i>Kurilla v. Callahan</i>	M.D. Pa.
1999	<i>Jensen v. Reeves</i>	D. Utah.
2000	<i>Fuller v. Decatur Public School Bd. of Educ. School Dist. 61</i>	C.D. Ill.

(table continues)

Year	Case Name	
2000	<i>Hammock ex rel Hammock v. Keys</i>	S.D. Ala.
2000	<i>Rabideau v. Beckmantown Cent. School Dist.</i>	N.D.N.Y.
2000	<i>Riggan v. Midland Independent School Dist.</i>	W.D. Tex.
2001	<i>Brian A. ex rel. Aurthur A. v. Strou- dsburg Area School Dist</i>	M.D. Pa.
2001	<i>Butler v. Oak Creek-Franklin School Dist.</i>	E.D. Wis.
2001	<i>*Castaldo v. Stone</i>	D. Colo.
2001	<i>*Clark v. Bibb County Bd. of Educ.</i>	M.D. Ga.
2001	<i>*Fleming v. Jefferson County School Dist. No. R-1</i>	D. Colo.
2002	<i>Coy ex rel. Coy v. Board of Educ. of North Canton City Schools</i>	N.D. Ohio
2002	<i>Johnson v. Collins</i>	D.N.H.
2002	<i>*Lindsley ex rel. Kolodziejczack v. Girard School Dist.</i>	W.D. Pa.
2003	<i>*Cain v. Tigard-Tualatin School Dist. 23J</i>	D. Or.
2003	<i>*Corey H. ex rel. B.h. v Cape Henlopen School Dist.</i>	D. Del.
2003	<i>*Doe v. Lennox School Dist. No. 41-4</i>	D.S.D.
2003	<i>*Draudt v. Wooster City School Dist. Bd. Of Educ.</i>	N.D. Ohio
2004	<i>*Caudillo ex rel. Caudillo v. Lubbock Independent School Dist.</i>	N.D. Tex.
2004	<i>*Dean v. Utica Community Schools</i>	E.D. Mich.
2005	<i>Bravo ex rel. Ramirez v. Hsu</i>	C.D. Cal.
2005	<i>Cohn v. New Paltz Central School Dist.,</i>	N.D.N.Y.
2005	<i>Daniels v. Lutz</i>	E.D. Ark.
2005	<i>Posthumus v. Board of Educ. of Mona Shores Public Schools</i>	W.D. Mich.
2006	<i>Burreson v. Barneveld School Dist.</i>	W.D. Wis.
2006	<i>*Kline ex rel. Arndt v. Mansfield</i>	E.D. Pa.
2006	<i>Ponce v. Socorro Independent School Dist.</i>	W.D. Tex.
2007	<i>*Cave v. East Meadow Union Free School dist.,</i>	E.D.N.Y.
2007	<i>*Gay-Straight Alliance of Okeechobee H.S. v. School Bd. of Okeechobee Co.</i>	S.D. Fla.
2007	<i>Layshock v. Hermitage School Dist.</i>	W.D. Pa.
2007	<i>Mardid v. Anthony</i>	S.D. Tex.
2007	<i>Nguon v. Wolf</i>	C.D. Cal.
2007	<i>*Wilson ex. rel. Adams v. Cahokia School Dist. No. 187</i>	S.D. Ill.
2008	<i>*A.V. v. iParadigms, Ltd. Liability Co.</i>	E.D. Va.
2008	<i>Vassallo v. Lando</i>	E.D.N.Y.
2009	<i>Halladay ex rel. A.H. v. Wenatchee School Dist.</i>	E.D. Wash.
2010	<i>Brown ex rel. Brown v. Cabell County Bd. of Educ.</i>	S.D. W.Va.
2010	<i>Mardis v. Hannibal Public School Dist.</i>	E.D. Mo.

Table 3

Case Law 1982-2011: Jurisdiction (Court of Appeals)

Year	Case Name	Court
1982	<i>*Horton v. Goose Creek Independent School Dist.</i>	Tex. Ct. App.
1984	<i>Bernstein v. Menard</i>	E.D. Va.
1984	<i>Tarter v. Raybuck</i>	Cal. Ct. App.
1986	<i>Doe by Gonzales v. Maher</i>	Cal. Ct. App.
1986	<i>*San Diego Committee Against Registration and the Draft (Card) v. Governing Bd. Of Grossmont Union High School Dist.,</i>	Cal. Ct. App.
1988	<i>Crosby by Crosby v. Holsinger</i>	Va. Ct. App.
1989	<i>Edwards For & in Behalf of Edwards v. Rees</i>	Utah Ct. App.
1989	<i>*Garnett By & Through Smith v. Renton School Dist. No. 403</i>	Wash. Ct. App.
1989	<i>Poling v. Murphy</i>	Tenn. Ct. App.
1993	<i>*Bernard v. United Tp. High School Dist. No. 30</i>	Ill. Ct. App.
1995	<i>Hassan v. Lubbock Independent School Dist.</i>	Tex. Ct. App.
1995	<i>Wallace by Wallace v. Batavia School Dist. 101</i>	Ill. Ct. App.
1996	<i>Seamons v. Snow</i>	Utah Ct. App.
1997	<i>*Yeo v. Town of Lexington</i>	Mass. Ct. App.
1998	<i>*Woodis v. Westark Community College</i>	Ark Ct. App.
1999	<i>*Gant ex rel. Gant v. Wallingford Bd. Of Educ.</i>	Conn. Ct. App.
1999	<i>Henerey ex rel. Henerey v. City of St. Charles, School Dist.</i>	Mo. Ct. App.
1999	<i>London v. Directors of DeWitt</i>	Ark. Ct. App.
1999	<i>*Lovern v. Edwards</i>	Utah C. App.
2000	<i>West v. Derby Unified School Dist. No. 260</i>	Kan. Ct. App.
2001	<i>Gottlieb ex rel. Calabria v. Laurel Highlands School Dist.</i>	Pa. Ct. App.
2003	<i>*Walker-Serrano ex rel. Walker v. Leonard</i>	Pa. Ct. App.
2004	<i>Holloman ex. Rel. Holloman v. Harland</i>	Ala. Ct. App.

(table continues)

Year	Case Name	Court
2004	<i>Porter ex rel. LaBlanc v. Ascension Parish School Bd.</i>	La. Ct. App.
2004	<i>Wofford v. Evans</i>	Va. Ct. App.
2005	* <i>Blau v. Fort Thomas Public School Dist.</i>	Ky. Ct. App.
2005	* <i>C.N. v. Ridgewood Bd. Of Educ.</i>	N.J. Ct. App.
2005	* <i>Flaim v. Medical College of Ohio</i>	Ohio Ct. App.
2006	<i>Gray ex rel. Alexander v. Bostic</i>	Ala. Ct. App.
2006	<i>Pace v. Talley</i>	La. Ct. App.
2006	<i>Pinard v. Clatskanie School Dist. 6J</i>	Or. Ct. App.
2007	<i>Boim v. Fulton County School Dist.</i>	Ga. Ct. App.
2007	* <i>Michael C. v. Gresbach</i>	E.D. Wis.
2008	<i>Doninger v. Niehoff</i>	Conn. Ct. App.
2008	<i>S.E. v. Grant County Bd. Of Educ.</i>	Ky. Ct. App.
2008	<i>S.S. v. Eastern Kentucky University</i>	Ky. Ct. App.
2009	<i>Bryant v. Board of Educ., Dist. 228</i>	Ill. Ct. App.
2009	<i>Corales v. Bennett</i>	Cal. Ct. App.
2009	<i>Corder v. Lewis Palmer School District. No. 38.</i>	Colo. Ct. App.
2010	<i>J.S. ex rel. Snyder v. Blue Mountain School Dist</i>	Pa. Ct. App.
2010	<i>T.W. ex rel. Wilson v. School Bd. Of Seminole County</i>	Fla. Ct. App.
2011	<i>Lopera v. Town of Coventry</i>	Mass. Ct. App. 2011

Table 4

Case Law 1982-2011: Jurisdiction (Supreme Court)

Year	Case Name	Court
1985	<i>New Jersey v. T.L.O.</i>	U.S. N.J.
1988	<i>Hazelwood School Dist.v. Kuhlmeier</i>	U.S. Mo.
1995	<i>Vernonia School Dist. 47J v. Action</i>	U.S. Or.
2007	<i>Morse v. Frederick</i>	U.S.

The United States Supreme Court heard four cases involving issues of student misconduct and discipline in this sample. Of the 42 United States Courts of Appeal cases, 31

involved incidents of student discipline. Of the 42 cases, 11 were excluded for lacking incidents of student discipline. Of the 69 United States District Court cases, 45 included incidents involving student discipline in schools, and of the 69 cases, 24 were excluded due to lacking involvement of actual student discipline (see Figure 3).

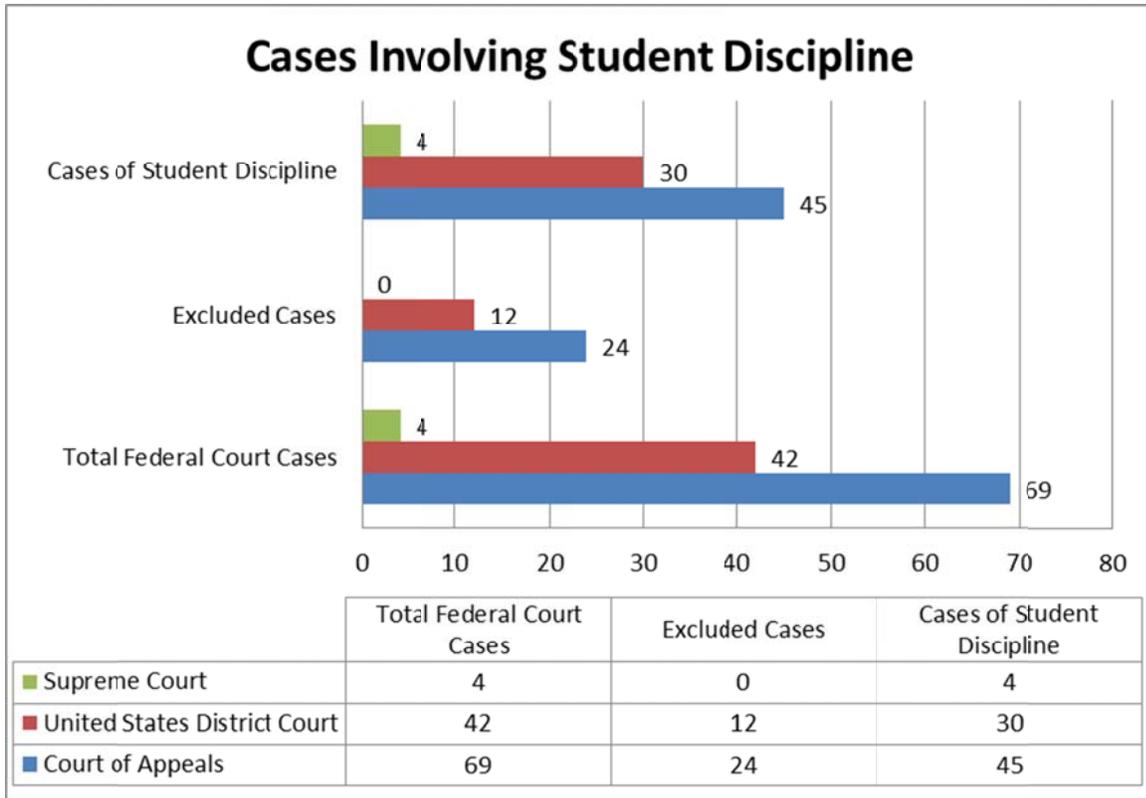


Figure 3. Cases involving student discipline.

A total of 36 of the original 115 cases in West KeyNumber “Schools 169, Control of pupils and discipline in general,” were excluded from this study (see Table 5). Excluded cases lacked the implementation of disciplinary action. These cases only included the arguments of appropriate policy. A total of 79 cases remained to be included in the final analysis (see Table 1).

Table 5

Excluded Case Law

Year	Case Name
1986	<i>San Diego Committee Against Registration and the Draft (Card) v. Governing Bd. Of Grossmont Union High School Dist.,</i>
1989	<i>Garnett By & Through Smith v. Renton School Dist. No. 403</i>
1989	<i>Nelson v. Moline School Dist. No. 40</i>
1989	<i>Romano v. Harrington</i>
1990	<i>Bull by Bull v. Dardanelle Public School Dist. No. 15</i>
1991	<i>Hemry by Hemry v. School Bd. Of Colorado Springs School Dist. No. 11.</i>
1991	<i>Planned Parenthood of Southern Nevada, Inc. v. Clark County School Dist.</i>
1992	<i>Clark v. Dallas Independent School Dist.</i>
1993	<i>Bernard v. United Tp. High School Dist. No. 30</i>
1994	<i>Engele v. Independent School Dist. No. 91</i>
1997	<i>Grendell v. Gillway</i>
1997	<i>Yeo v. Town of Lexington</i>
1998	<i>Carroll K. v. Fayette County Bd. of Educ.</i>
1998	<i>Woodis v. Westark Community College</i>
1999	<i>Gant ex rel. Gant v. Wallingford Bd. Of Educ.</i>
1999	<i>Lovern v. Edwards</i>
2001	<i>Castaldo v. Stone</i>
2001	<i>Clark v. Bibb County Bd. of Educ.</i>
2001	<i>Fleming v. Jefferson County School Dist. No. R-1</i>
2002	<i>Lindsley ex rel. Kolodziejczack v. Girard School Dist.</i>
2003	<i>Cain v. Tigard-Tualatin School Dist. 23J</i>
2003	<i>Corey H. ex rel. B.h. v Cape Henlopen School Dist.</i>
2003	<i>Doe v. Lennox School Dist. No. 41-4</i>
2003	<i>Draudt v. Wooster City School Dist. Bd. Of Educ.</i>
2003	<i>Walker-Serrano ex rel. Walker v. Leonard</i>
2004	<i>Caudillo ex rel. Caudillo v. Lubbock Independent School Dist.</i>
2004	<i>Dean v. Utica Community Schools</i>
2005	<i>Blau v. Fort Thomas Public School Dist.</i>
2005	<i>C.N. v. Ridgewood Bd. Of Educ.</i>
2005	<i>Flaim v. Medical College of Ohio</i>
2006	<i>Kline ex rel. Arndt v. Mansfield</i>
2007	<i>Cave v. East Meadow Union Free School dist.,</i>
2007	<i>Gay-Straight Alliance of Okeechobee H.S. v. School Bd. of Okeechobee Co.</i>
2007	<i>Michael C. v. Gresbach</i>
2007	<i>Wilson ex. rel. Adams v. Cahokia School Dist. No. 187</i>
2008	<i>A.V. v. iParadigms, Ltd. Liability Co.</i>

Legal guidelines provided in the following chapter were developed after reviewing the binding authority of each court decision. Inclusion of United States Supreme Court decisions allowed for a more extensive review from the highest level of federal judiciary authority to the lowest. The analysis of the court opinions in “Schools 169, Control of pupils and discipline,” allowed for the emerging of patterns and trends to serve as legal guidelines for educators.

The reviewing of court cases and analysis of literature revealed five primary categories in litigation of student misconduct: general disruptive behavior, alcohol and drug usage or possession, student expression, general threats and violent activity, and severe threats of violence (see Figure 4).

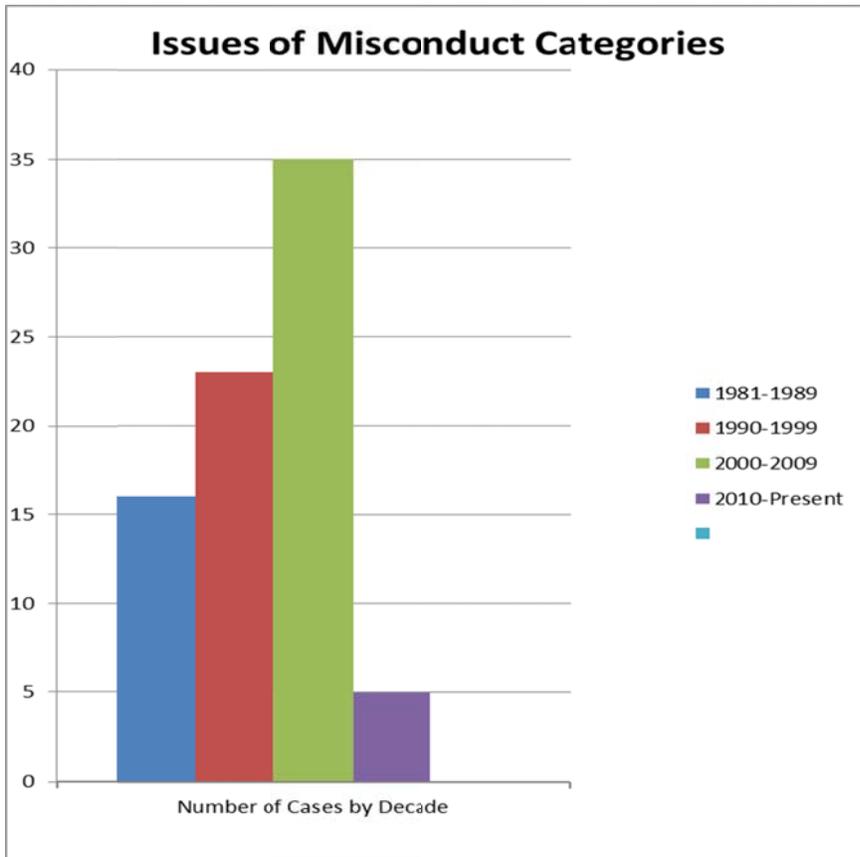


Figure 4. Misconduct cases by category.

General Disruptive Behavior

The cases analyzed in this study addressed discipline actions, with 33% of the cases involving general disruptive behavior. These cases varied, dealing with issues of failure to comply with school rules, confrontations, inappropriate conduct, and profanity and obscene material (see Figure 5).

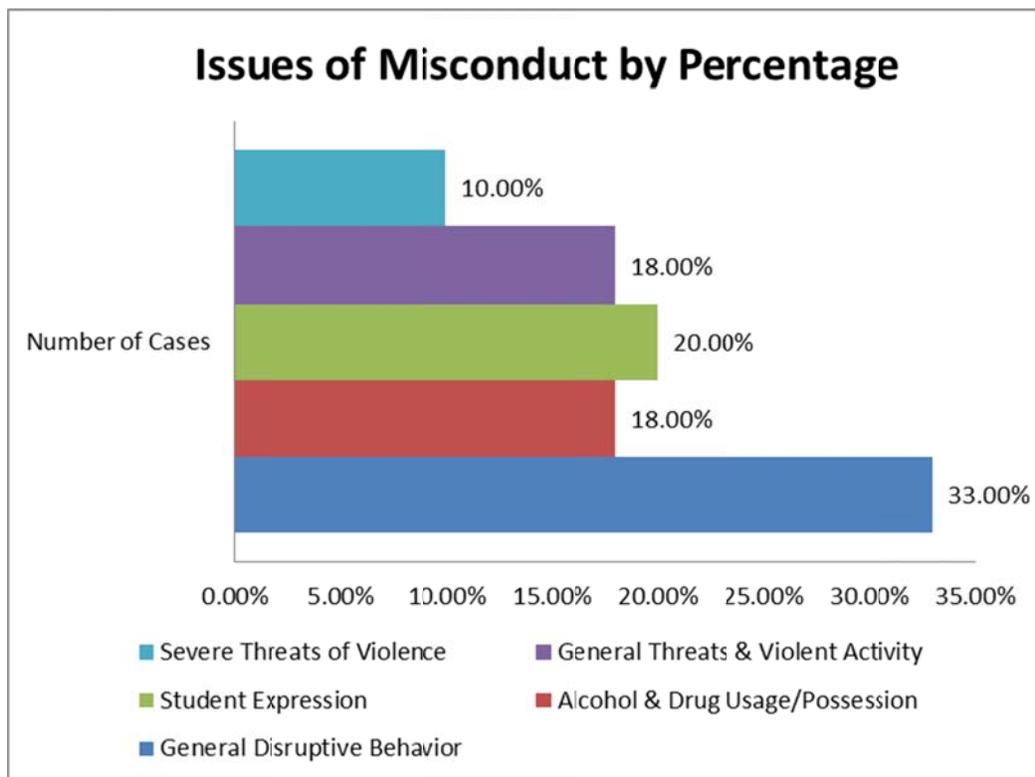


Figure 5. Misconduct categories percentages.

In the case of *J.S. ex rel. Snyder v. Blue Mountain School Dist.*, 2010), a middle school student created an offensive profile of her principal on a social networking site. The student, J.S., appealed after the district court granted the school district's motion for summary judgment on her First and Fourteenth Amendment claims. The United States Court of Appeals reversed,

remanded, and affirmed in part the decision of the district court. The court of appeals determined that the district's actions did violate the student's First Amendment rights. The profile was created off school grounds and did not pose a significant disruption in the school setting. However, the student's actions were a violation of school policy and subject to disciplinary action. The court affirmed the district did not violate the student's Fourteenth Amendment rights.

In a similar case, *Coy ex rel. Coy v. Board of Educ. of North Canton City Schools* (2002), Coy was disciplined for creating a website from his home computer containing lewd and obscene material. He was suspended and later expelled for violating the conduct code and internet policy. The court held that there was an issue of material fact. The district failed to show that Coy's actions interfered with the school's discipline and operation under *Tinker* (1969). Because Coy's discipline was due to accessing the website, the court denied the school district's motion for summary judgment, finding that his actions had no effect on the school's ability to maintain discipline.

There were numerous cases that addressed recurring misconduct. In *Jensen v. Reeves* (1999), the student, C.J., had a history of misconduct, including complaints of harassment. The harassment included several complaints of hitting and offensive touching. C.J.'s parents were informed that he was suspended for 10 days. They filed a suit claiming denial of procedural due process. The court found that procedural due process requirements were satisfied. Applying the Supreme Court case *Goss v. Lopez* (1975) justifies immediate suspension without prior notice when the student poses a danger or threat of continuous disruption of the academic process.

Alcohol/Drug Usage or Possession

Cases involving drugs and alcohol made up 18% of student misconduct cases. Cases involved promoting, usage, and possession of contraband substances. This category included three Supreme Court cases and varying interpretations of law (see Figure 5).

In the case *New Jersey v. T.L.O.* (1985), T.L.O. was found in possession of marijuana paraphernalia associated with distribution. The Supreme Court of New Jersey held that the search was not reasonable based on the suppression of evidence and reversed the judgment of the appellate court. The Supreme Court held that the search of T.L.O.'s belongings did meet reasonableness standards and supported the school officials in conducting the search without obtaining a warrant.

Following T.L.O., cases of students and drug activity continued to rise, providing a need for schools to react. In the case of *Vernonia School District 47J v. Acton* (1995), the school district adopted a drug policy for student athletes. All athletes were required to participate to continue athletic activities. One student was denied participation for refusal to consent to the testing. The student filed claims of violations of Fourth and Fourteenth Amendment rights. The claims were denied by the district court, but reversed by the appeals court. However, the United States Supreme Court concluded that the drug policy was constitutional and did not violate the student's rights. The state's action and interest in preventing abuse was not a significant invasion of privacy observed in *United States v. Edwards* (1974). Student's privacy is decreased and not entitled to full Fourth Amendment protections.

The Supreme Court case of *Morse v. Frederick* (2007) is also included in the category of student expression. This case involved the promotion of illegal drug usage. A student was suspended for violating school policy by displaying a banner stating "Bong Hits 4 Jesus." The

student, Frederick, claimed violation of his First Amendment rights. The district court found no constitutional violations and ruled in favor of the school district. This decision was later reversed on appeal, applying *Tinker* (1969) in supporting student speech. On the final appeal, the United States Supreme Court reversed in favor of the school district, stating no violations of First Amendment rights.

Student Expression

Student expression included various forms of student expressive issues associated with First Amendment rights. The First Amendment safeguards freedoms of speech, assembly, petition, and religion. This category consisted of 20% of student misconduct cases. These cases included issues related to the pledge of allegiance; prayer; oral, written, and symbolic censorship; protests; and student appearance (see Figure 5).

Censorship of a school newspaper occurred in the Supreme Court case of *Hazelwood School District v. Kuhlmeier* (1988). The school principal was concerned that two of the articles for publication contained inappropriate material and private material. The articles were pulled to avoid conflicts and protect the anonymity of the students. Members of the newspaper staff filed suit claiming violation of First Amendment rights. The District Court held that the principal's actions were reasonable. The decision was reversed on appeal, holding that the newspaper was a public forum. The Supreme Court's response was to reverse the judgment of the appellate court applying *Tinker v. Des Moines Independent Community School District* (1969), which articulated that an educator exercising editorial control does not offend the First Amendment.

The cases of *Dodd v. Rambis* (1981), *Madrid v. Anthony* (2007), and *Corder v. Lewis Palmer School District No. 38* (2009) included student protests and school walk-outs. All

decisions were in favor of the school district. Educators are entitled to exercise control over student expression related to school sponsored activities. *Morse v. Frederick* (2007) affirmed that schools have the authority to regulate student expression in a school setting that would not be censored outside of the school environment.

General Threats and Violent Activity

Cases involving threats of violence and violent activity composed 18% of the case sample. These issues included oral and written threats made to teachers and students, fights, and assaults. Cases in this category posed incidents of direct and indirect implication. Of these cases, 76% were found in favor of the school officials (see Figure 5).

In the case of *Halladay ex rel. A.H. v. Wenatchee School District* (2009), an elementary student was expelled after threatening to kill another student for hitting him in the face with a snowball. In response, the parents claimed violations of due process and failure to protect the student from harassment and bullying. As a result, the expulsion was reduced to a 1-day suspension.

In *Mardis v. Hannibal Public school District* (2010), a high school student sent an instant message threatening to kill another student. The student was suspended for the remainder of the year. The court viewed the plaintiff's speech or instant message as a true threat and supported the school administrators enforcing the suspension.

Gray ex rel. Alexander v. Bostic (2006) involved threats made toward a teacher. A 9-year-old student threatened to hit her coach and was questioned and handcuffed by the deputy. The parents filed a multi-violation complaint. Applying the reasonableness standard of T.L.O.,

the court found no reasonable threat that warranted cuffing a 9-year-old elementary student and deemed the action excessively intrusive.

Two cases in this category included indirect perceived threats through creative writing. In the case of *Ponce v. Socorro Independent School District* (2006), the student was suspended for writing stories that threatened violence on the school campus. The school officials did not meet the reasonableness requirement of showing the student's actions interfered with the operation of the school under *Tinker* (1969), finding that the potential harm to the student outweighed the possible harm to the school officials. In *Boim v. Fulton County School District* (2007), the student wrote a narrative that described shooting her teacher. Unlike the previous case, this student's behavior was considered to likely cause a substantial disruption to the school's maintenance of order. Under the *Burnside* standard in *Burnside v. Byars* (1966), student expression may be regulated without question when it contributes to maintaining order and decorum in educational settings.

Severe Threats of Violence

The majority of school discipline involved minor incidents. However, a few incidents occurred that were considered to be of a more serious nature. This sample yielded 10% of its cases in this category. Severe threats included incidents of bomb threats, gun possession, and campus fires (see Figure 5).

Three of the cases in this category involved school bomb threats. Implied threats in *Edwards For and in Behalf of Edwards v. Rees and Davis County School District* (1989), *Brian A. ex rel. Aurthur A. v. Stroudsburg Area School District* (2001), and *Johnson v. Collins* (2002) are considered terroristic in nature. Schools are required to maintain safety and order within the

educational environment. When actions disrupt the educational process, appropriate discipline is warranted, satisfying the rational basis test and entitling the school officials to summary judgment. However, in the case of *Johnson v. Collins* (2002) the allegations against the student were not proven or supported by evidence and the student was granted preliminary injunction requiring school readmission.

Another issue of a severe nature included gun possession and threats. Cases in this category included *Carey of Behalf of Carey v. Maine School Administrative District No. 17* (1990), *Wofford v. Evans* (2004), and *Cohn v. New Paltz Central School District* (2005).

In the case of *Carey of Behalf of Carey v. Maine School Administrative District No. 17* (1990), the student had possession of an automatic handgun and threatened to shoot people at a basketball game. In *Wofford v. Evans* (2004), an elementary student was accused of possessing a gun on campus and was suspended. The students confessed and the district court supported the school district in both cases. Schools are responsible for maintaining discipline and providing a safe educational environment. Suspicion of handgun possession constitutes a disruption in the education process and does not constitute a violation of substantial due process rights. However, in the case of *Cohn v. New Paltz Central School District* (2005), it was reported that a student was suspended for discussing guns. The guns were later discovered off campus. In this case the court found that the student's speech about handguns did not directly constitute a threat or express intent to harm. However, school officials reasonably believed that they were working under discretion of their authority and entitled to qualified immunity.

The courts will support the school in situations where the threat is obvious. In lesser situations or situations where the threat is not so obvious when examined later, the court will to the context and how the school administrators react in determining if a "true threat" existed.

The Constitution

In addition, the review of court cases unforeseen in the analysis of literature revealed four primary claim categories in litigation of student rights violation: First, Fourth, Fifth, and Fourteenth Amendment claim violations (see Figure 6).

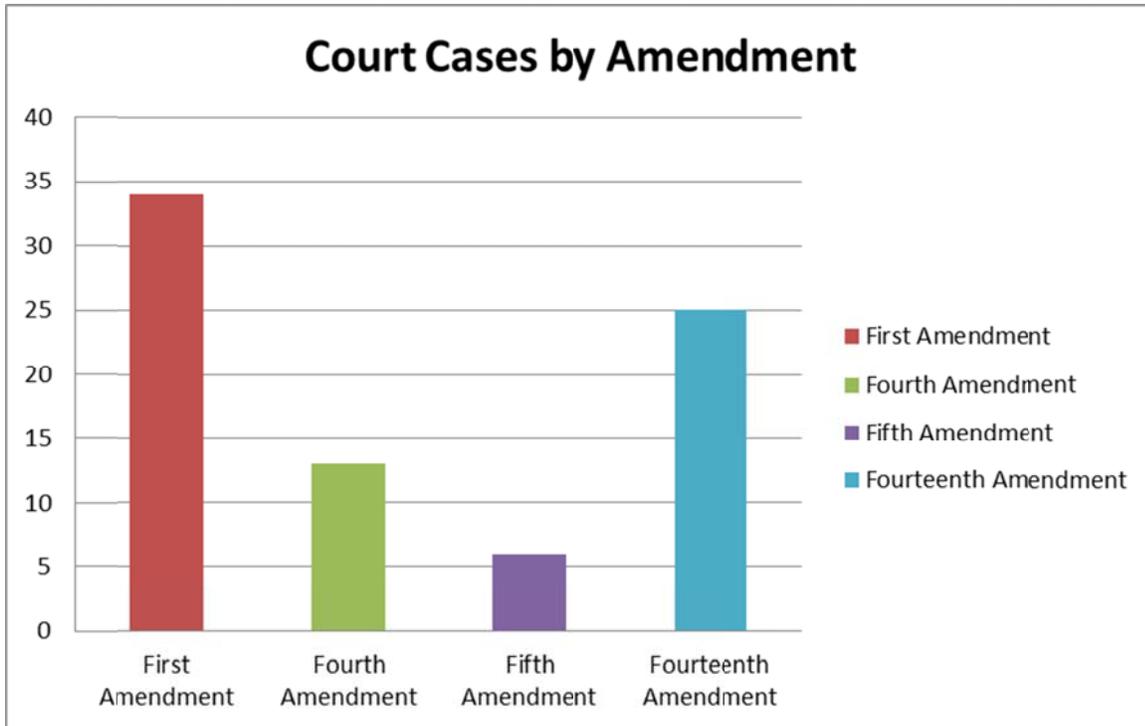


Figure 6. Case by Amendment.

First Amendment cases involving student misconduct and discipline are primarily related to situations involving free speech and expression. There were 34 cases identified in this category. The litigation issues revealed most often involved student speech and expression through censorship of oral and written speech, prayer, protest, dress code, and other forms of individual expression.

Fourth Amendment cases generally focused on issues involving violation of policies related to searches and seizure; 27 cases were identified under this category. These cases often involved one or more of the following: student questioning, drug/alcohol possession, threats of violence, privacy rights, and searches of person and property. Of the 27 identified cases, 13 also included Fourteenth Amendment violations (see Figure 7).

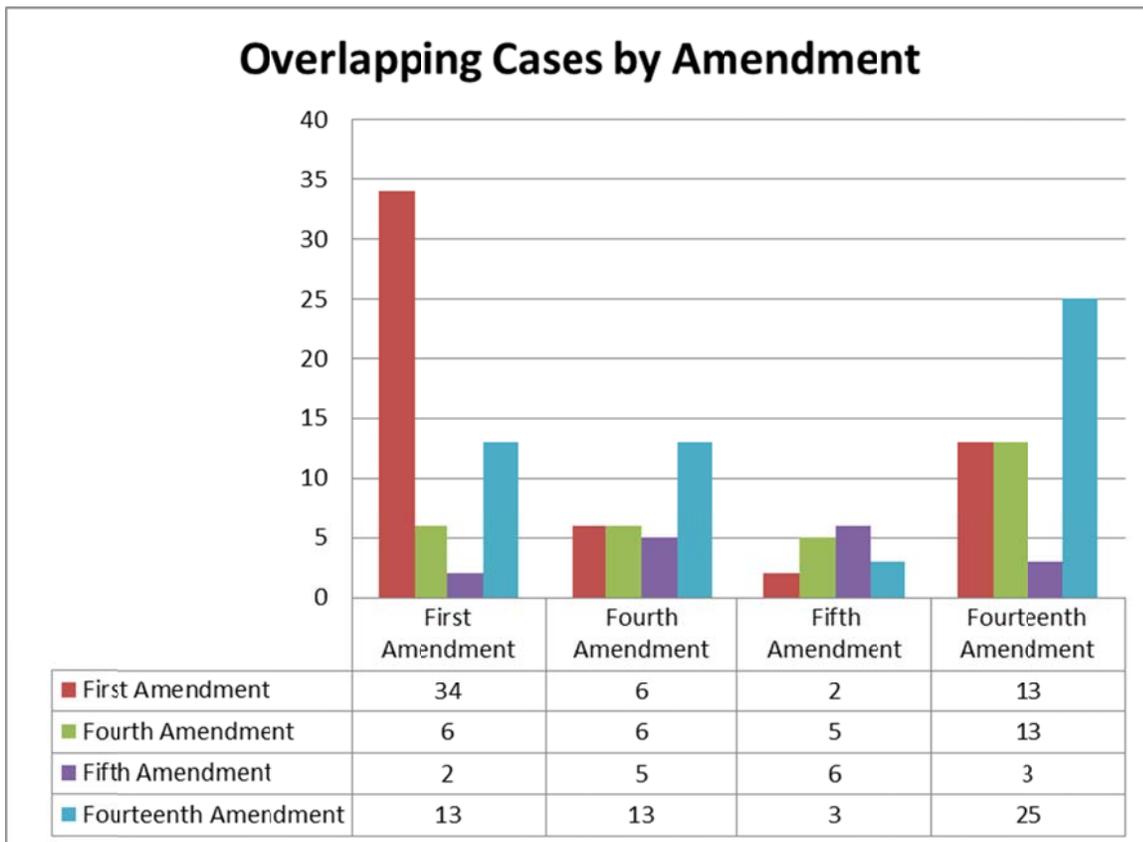


Figure 7. Overlapping cases by Amendment.

Fourteenth Amendment cases focused primarily on issues involving due process violations. There were 25 cases identified under this category. Of these cases, 13 included First Amendment violation claims and 13 also overlapped with Fourth Amendment claims. Cases of

discrimination and inequality are entitled to equal protection under the Fourteenth Amendment (see Figure 7).

The cases in this study involved schools in the public school system (K-12), students, misconduct, discipline, or disciplinary procedures. The study of 115 cases highlighted a variety of issues. The issues addressed most commonly include these topics of litigation: qualified immunity, due process, free speech/expression, and search and seizure (see Figure 8).

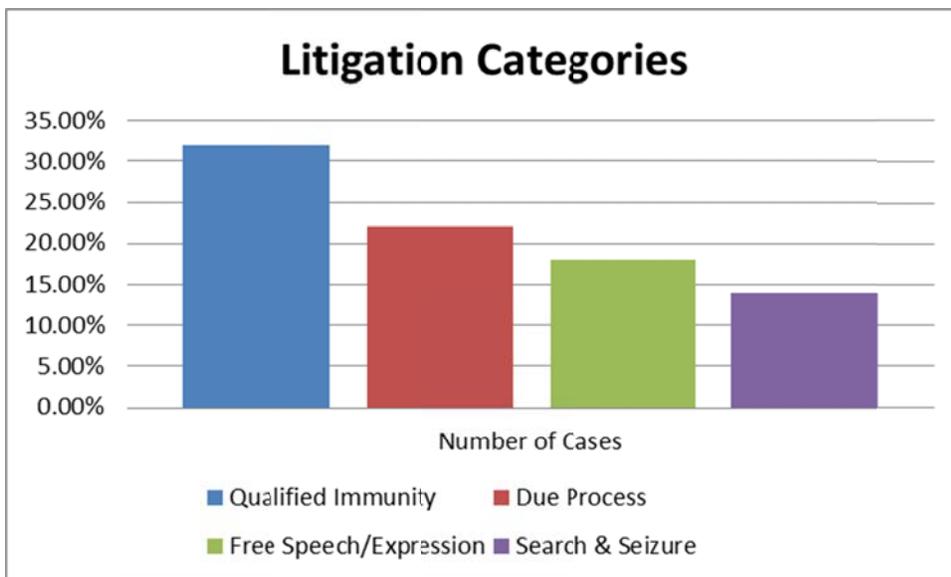


Figure 8. Litigation category percentages.

Qualified Immunity

The majority of the cases included in this study addressed the entitlement of qualified immunity (see Table 6). In 45 of the 115 cases, defendants filed motions of summary judgment based on qualified immunity, making up 57% of the sample (see Figure 9).

Table 6

Case Law Resulting in Qualified Immunity

Year	Case Name	Court
1981	<i>Diggles v. Corsicana Independent School Dist.</i>	N.D.Tex.
1981	<i>Stern v. New Haven Community Schools</i>	E.D. Mich.
1984	<i>Bernstein v. Menard</i>	E.D. Va.
1984	<i>Pollnow v. Glennon</i>	S.D.N.Y.
1985	<i>Martens By and Through Martens v. District No. 220, Board Of Education</i>	N.D. Ill.
1989	<i>Rivera v. East Otero School Dist. R-1</i>	D. Colo.
1989	<i>Poling v. Murphy</i>	Tenn. Ct. App.
1989	<i>Edwards For & in Behalf of Edwards v. Rees</i>	Utah Ct. App.
1996	<i>Harris by Tucker v. County of Forsyth</i>	M.D.N.C.
1996	<i>Rasmus v. State of Ariz.</i>	D. Ariz.
1996	<i>Jackson v. Katy Independent School Dist.</i>	S.D. Tex.
1996	<i>Seamons v. Snow</i>	Utah Ct. App.
1997	<i>Kicklighter v. Evans County School Dist.</i>	S.D. Ga.
1997	<i>Bills by Bills v. Homer Consol. School Dist. No. 33-C</i>	N.D. Ill.
1998	<i>Pirschel v. Sorrell</i>	E.D. Ky.
1999	<i>Achman v. Chicago Lakes Independent School Dist. No. 2144</i>	D. Minn.
1999	<i>Higginbottom ex. rel. Davis v. Keithley</i>	S.D. Ind.
1999	<i>Henerey ex rel. Henerey v. City of St. Charles, School Dist.</i>	Mo. Ct. App.
1999	<i>Kurilla v. Callahan</i>	M.D. Pa.
1999	<i>London v. Directors of DeWitt</i>	Ark. Ct. App.
2001	<i>Gottlieb ex rel. Calabria v. Laurel Highlands School Dist.</i>	Pa. Ct. App.
2001	<i>Brian A. ex rel. Aurthur A. v. Strou- dsburg Area School Dist</i>	M.D. Pa.
2005	<i>Posthumus v. Board of Educ. of Mona Shores Public Schools</i>	W.D. Mich.
2005	<i>Bravo ex rel. Ramirez v. Hsu</i>	C.D. Cal.
2005	<i>Cohn v. New Paltz Central School Dist.,</i>	N.D.N.Y.

(table continues)

Year	Case Name	Court
2006	<i>Pace v. Talley</i>	La. Ct. App.
2006	<i>Burreson v. Barneveld School Dist.</i>	W.D. Wis.
2007	<i>Nguon v. Wolf</i>	C.D. Cal.
2007	<i>Morse v. Frederick</i>	U.S.
2007	<i>Mardid v. Anthony</i>	S.D. Tex.
2007	<i>Boim v. Fulton County School Dist.</i>	Ga. Ct. App.
2008	<i>S.S. v. Eastern Kentucky University</i>	Ky. Ct. App.
2008	<i>Doninger v. Niehoff</i>	Conn. Ct. App.
2008	<i>Vassallo v. Lando</i>	E.D.N.Y.
2009	<i>Corder v. Lewis Palmer School District. No. 38.</i>	Colo. Ct. App.
2009	<i>Corales v. Bennett</i>	Cal. Ct. App.
2009	<i>Halladay ex rel. A.H. v. Wenatchee School Dist.</i>	E.D. Wash.
2009	<i>Bryant v. Board of Educ., Dist. 228</i>	Ill. Ct. App.
2010	<i>T.W. ex rel. Wilson v. School Bd. Of Seminole County</i>	Fla. Ct. App.
2010	<i>J.S. ex rel. Snyder v. Blue Mountain School Dist</i>	Pa. Ct. App.
2010	<i>Brown ex rel. Brown v. Cabell County Bd. of Educ.</i>	S.D. W.Va.
2010	<i>Mardis v. Hannibal Public School Dist.</i>	E.D. Mo.
2011	<i>Lopera v. Town of Coventry</i>	Mass. Ct. App.

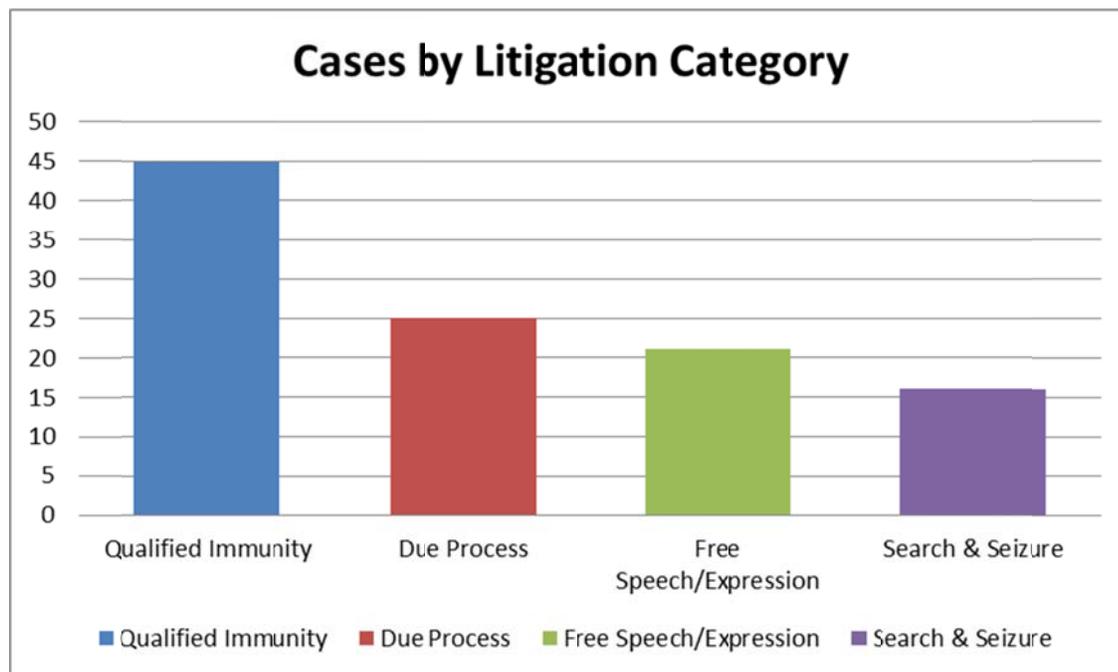


Figure 9. Litigation categories.

Summary judgment is appropriate when there is little to no evidence in support of claims (*Gallo v. Prudential Residential Servs.*, 1994). Qualified immunity provides protection for government authorities sued for individual capacities of conduct. The defendants are responsible for establishing that they are working within the scope of their discretionary authority. Once this is established, the burden falls to the plaintiff to prove that the defendant's actions were in bad faith or outside their scope of authority as established in *Harlow v. Fitzgerald* (1982).

Due Process

In 25 of the 115 cases, plaintiffs filed due process claims. Of due process claims in this sample, 72% were found in favor of the school district. Plaintiffs filing due process claims are required to produce adequate support of deprivation of constitutional rights, as supported in *Gunkel v. City of Emporia* (1987). Substantive due process succeeds when there is not a rational relationship between the offense and the punishment. Procedural due process requires parents to be notified of the student violation and provided the opportunity to be heard for suspensions less than 10 days, as held in *Goss v. Lopez* (1975; see Figure 9).

Free Speech and Expression

Claims related to free speech and expression made up 18% of the cases in this study. Plaintiffs in 21 of the 115 cases filed free speech and expression claims, a violation under the First Amendment. Of these claims, 55% were found in favor of the school district.

Schools have the discretion to take steps to safeguard inappropriate or disruptive speech according to *Kuhmeier (Hazelwood School District v. Kuhlmeier, 1986)*. The rights of adults in

general settings are not parallel with students in public school settings, applying *Frasier (Bethel School District No. 403 v. Frasier, 1986)*.

Tinker (1969) supported that the public school students have the right to free speech. The United States Court of Appeals, Ninth Circuit, found that schools could not prohibit free speech in the absence of evidence of substantial interference with discipline policies or the rights of others, applying *Tinker v. Des Moines Independent Community School District* (1969).

Search and Seizure

Claims of unreasonable search and seizure comprise a total of 14% of cases analyzed in this sample. Plaintiffs in 16 of the total 115 cases filed claims of violation of search and seizure under the Fourth Amendment (see Figure 9).

The Fourth Amendment provides protection from unreasonable searches and seizures as established in *Doe v. Heck* (2003). The primary concern of the Fourth Amendment is reasonableness; reasonableness is determined based on the circumstances. The Fourth amendment does not require school officials to obtain a warrant before implementing a student search. The Miranda rule is not extended to school officials during interrogations (*Miranda v. Arizona, 1966*). The scope of the search must be reasonable and related to the circumstances that prompted the search. Student's Fourth Amendment rights are limited to preserve order in schools and maintain a proper educational environment as established in *New Jersey v. T.L.O.* (1985).

CHAPTER V

RESEARCH QUESTIONS, CONCLUSIONS, AND RECOMMENDATIONS

Introduction

The purpose of this research study was to enlighten education professionals in the areas of student misconduct and discipline. Court cases reviewed for this study were derived from West Education Law Reporter between the time period from 1982-2011 to determine issues, trends, and outcomes. Based on the analysis drawn from these cases, recommendations and guidelines for educators were developed. This final chapter is a summary of the research as it relates to the research questions. Conclusions derived through case analysis, and recommendations for further studies. The following research questions guided the process of data collection and analysis.

Research Questions

Research Question 1

Research Question 1 in this study was, “What issues regarding student misconduct and discipline in K-12 schools have been identified by federal courts in West’s Education Law Digest Schools 169, Control of pupils and discipline in general between 1982 and 2011?”

According to the research included in this study, there are multiple issues that dominate the cases included in this study. During the predetermined time period 1982-2011, there were 115 cases listed in *West’s Education Law Digest Schools 169, Control of pupils and discipline*. Thirty-six cases were excluded for not containing disciplinary actions (see Table 2 and Figure 3).

There were 79 cases that dealt directly with the topic of student misconduct and discipline. Of these cases, 23 were general disruptive behaviors, 14 were alcohol/drug usage or possession, 16 were student expression, 14 were general threats and violent activity, and 9 were severe threats of violence (see Figure 4).

Of the cases included in this research, there were 92 claims of violations of constitutional rights. In 34 cases, there were claims of violation of First Amendment rights, 27 cases claimed a violation of Fourth Amendment rights, 6 cases included claims of Fifth Amendment rights, and 25 cases claimed violation of Fourteenth Amendment rights (see Figure 6).

Based on the cases analyzed in this study, the primary issue of student misconduct was general disruptive behavior. A total of 23 cases dealt with general disruptive behavior. This included failure to comply with school rules, confrontations, inappropriate conduct, and profanity and obscene material. Schools were charged with various constitutional violations (see Figure 5).

The next largest issue of student misconduct and discipline was student speech and expression. A total of 16 cases dealt with student speech and expression. These cases included issues such as the pledge of allegiance, prayer, oral/written/symbolic censorship, protests, and student appearance.

The discipline issues in the categories of alcohol/drug usage or possession and general threats and violent activity each contained 14 cases. Alcohol and drug cases included promoting, usage, and possession of banned substances. General threats and violent activity included issues of oral and written threats made to teachers and students, fights, and assaults.

Of the 79 cases analyzed that directly related to student misconduct and discipline, 59 cases were decided in favor of schools, with 4 cases being dismissed. Three court decisions were

in favor of the school’s opponent. Split decisions occurred in 12 of the analyzed cases with part of the ruling in favor of the school system and the other part in favor of the school system’s opponent. The final two cases were remanded (see Figure 10).

The case law analyzed during this research yielded 13 guiding principles for school administrators to follow.

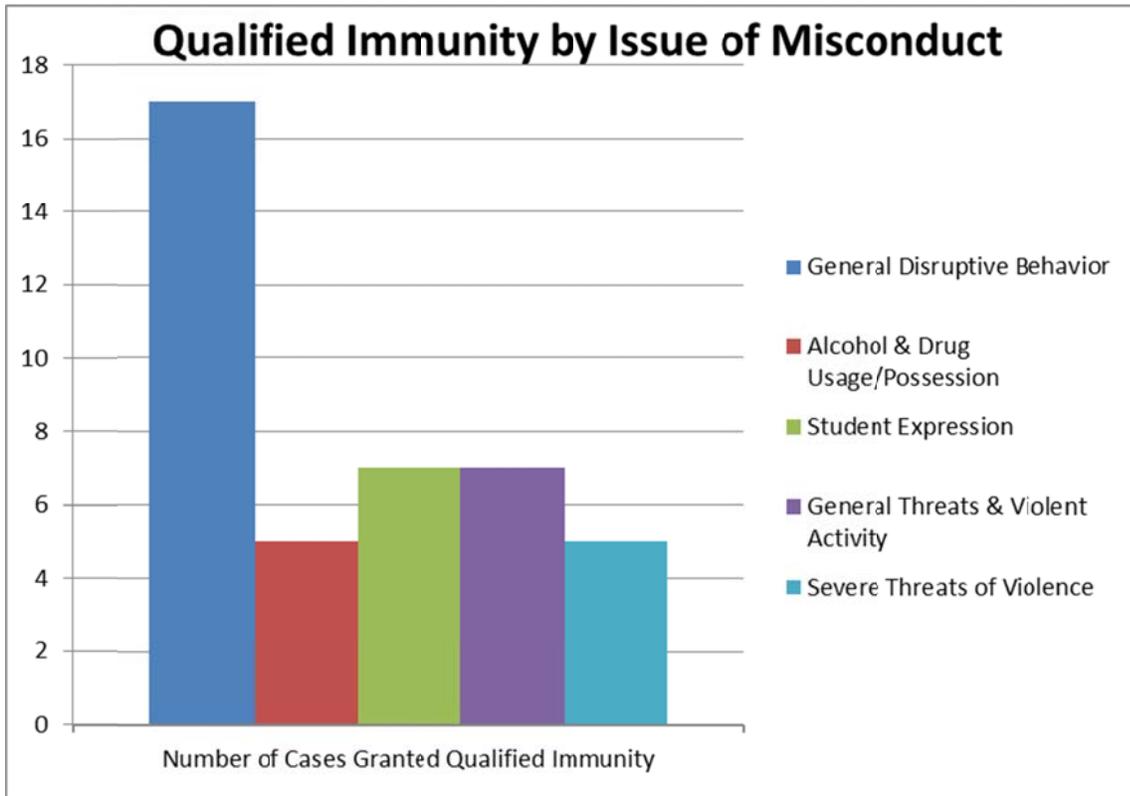


Figure 10. Qualified immunity by issue category.

Research Question 2

Research Question 2 in this study was, “What outcomes have occurred in court cases involving student misconduct and discipline in K-12 schools?”

In the court decisions since the first case included in this study, *Diggles v. Corsicana Independent School District* (1981), the majority of the court opinions have been in favor of the school and school system. Of the 79 cases analyzed, 58 of the judgments (73%) were in favor of the school officials and school system. Conversely, 3 judgments (3%) were in favor of the student. Split decisions occurred in 12 (15%) cases, 4 (5%) cases were dismissed, and 2 (2%) cases were remanded (see Figure 11).

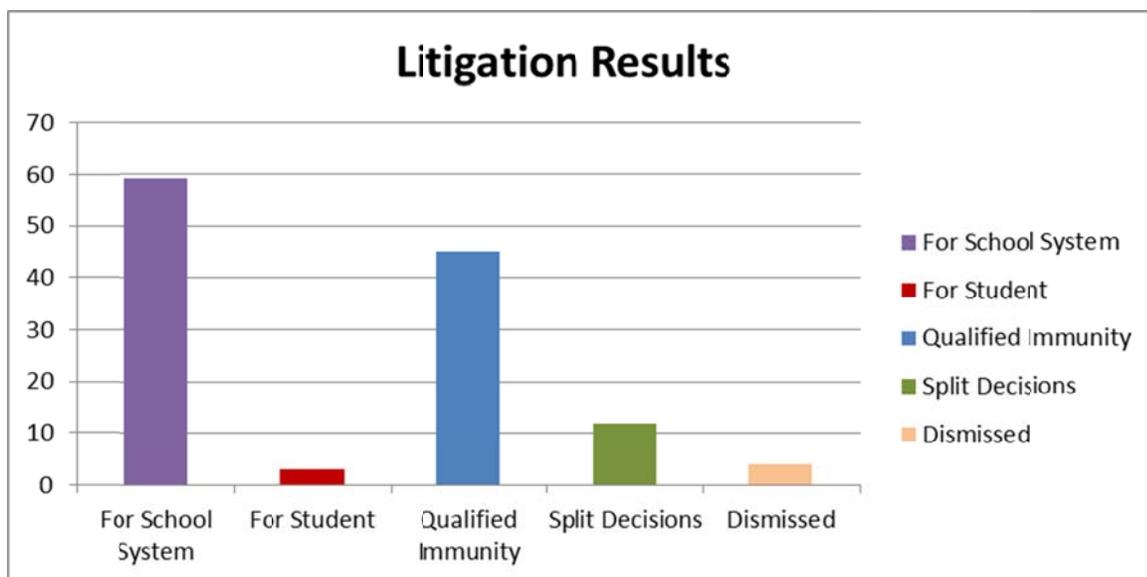


Figure 11. Litigation results.

The cases found in favor of the student included First Amendment and due process claims. Two cases (2%) involved free speech and expression, *Coy ex rel. Coy v. Board of Educ. of North Canton City Schools* (2002) and *Alabama and Coushatta Tribes of Texas v. Trustees of Big Sandy Independent School District* (1993), and 1 case involved a due process issue, *Johnson v. Collins* (2002).

Split decisions occurred when multiple claims were brought against the defendant and the plaintiff was successful in some but not all of them. In split decisions the court finds in favor of the defendant for at least one charge and the plaintiff or student for an additional charge or charges. The 12 claims resulting in split decisions consisted of 3 claims based on due process violations, 8 claims based on First Amendment violations, 3 claims based on Fourth Amendment violations, 2 claims based on Fifth Amendment violations, and 5 claims based on Fourteenth Amendment violations.

Case analysis revealed that the application of law in guiding the final judgment has been somewhat inconsistent. The majority of court decisions supported the school's right to enforce discipline to maintain order in the educational environment. However, in a few instances the law is interpreted to rank student rights over the school's right to maintain order and discipline. Courts make this determination by applying various standards of law.

Examples of the court's application of law include *Ponce v. Socorro Independent School District* (2006) and *Boim v. Fulton County School District* (2007). In *Ponce v. Socorro Independent School District* the court applied *Tinker* (1969), finding that the potential harm to the student outweighed the possible harm to the school officials. However, in a similar case the court applied the *Burnside* (1966) standard in *Burnside v. Byars* (1966). Under this standard, student expression may be regulated without question when it contributes to maintaining order and decorum in educational settings.

It must be observed that, despite all the concern in the literature and in teacher training for the potential for litigation about student discipline, the likelihood of losing a court case in this area is negligible. Of the 79 cases analyzed, the school actually lost only 3 of them.

Research Question 3

Research Question 3 in this study was, “What legal trends have developed through federal and state case law with regards to student misconduct and discipline?”

The data analyzed in this study, that involved litigation with misconduct and discipline, revealed an increase in 1999 with a steady increase in numbers over the years. The data from 1981-1989 shows there was a total of 16 cases filed. During 1990-1999, there were a total of 23 cases filed. However, during 2000-2009, there was an increase to 35 cases filed with 5 additional cases filed since 2010 (see Figure 12).

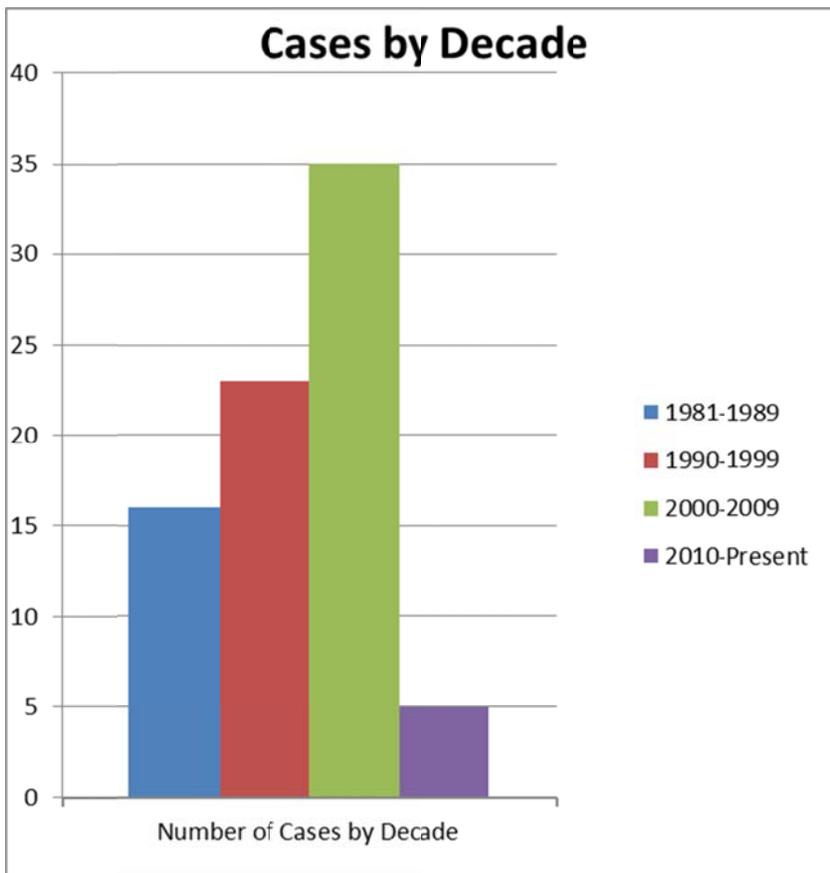


Figure 12. Litigation by decade.

The number of cases found in favor of students was consistently low. Students were found in favor of 3 cases during 1993-2002, with 1 case held in 1993, and 2 cases in held 2002. Split decisions occurred in 12 cases, with 9 of those cases during the timeframe of 2000-2010.

The court opinions often focused on the issue of qualified immunity. Qualified immunity provides protection for government authorities sued for individual capacities of conduct. The school officials must establish that they are working within the scope of their discretionary authority. Then, the burden falls to the student to prove that the school's actions were in bad faith or outside their scope of authority, as established in *Harlow v. Fitzgerald* (1982). School officials were awarded qualified immunity in 45 (57%) of the 79 cases in the study (see Figure 10).

When the school's actions were reasonable, they were protected by qualified immunity and granted summary judgment. Summary judgment is useful in isolating and terminating factually unsupported claims, as established in *Celotex Corp. v. Catrett* (1986). In reviewing a motion for summary judgment, the school officials must show that no genuine issues of material fact are present. The court reviews the information in a light most favorable to the opposing or non-moving party (*Beck v. City of Upland*, 2008). When or if the school officials provide sufficient evidence to support their claim, the student must show that genuine issues of material fact are present. If the school officials satisfy the requirements they are entitled to summary judgment based on qualified immunity.

There were no cases in this sample that granted school officials with sovereign immunity. The protections of qualified immunity are not as broad as sovereign immunity. It provides protection and immunity in certain situations. Therefore, school administrators must be careful in their actions.

This analysis also revealed the most common litigation claims consisted of multiple student right's violations through First, Fourth, Fifth, and Fourteenth Amendments. There were 33 (41%) cases with claims of First Amendment violations. Twenty-six (32%) cases included Fourth Amendment claim violations. The Fifth Amendment was claimed in 6 (7%) cases, and the Fourteenth Amendment represented 25 (31%) case violations (see Figure 7).

Although the number of court cases about student discipline has increased from decade to decade, the likelihood of a bad outcome for the school is small. However, the most likely claim will be constitutional in nature, which creates more costs of litigation.

Research Question 4

Research Question 4 in this study was, "What legal principles for school administrators can be discovered from court cases about student misconduct and discipline in K-12 schools?"

School system administrators have a legal obligation to maintain an appropriate educational environment in accordance with both state and federal regulations. Student's Fourth Amendment rights, as outlined within the United States Constitution, are limited to preserve order in schools and maintain a proper educational environment as established in *New Jersey v. T.L.O* (1985). It is imperative that school leaders fully understand student's rights and applicable state and federal statutes in regard to the implementation of student discipline. All state and federal laws and regulations, state constitutions, and school board policies are under the provision of the United States constitution. The constitutions clearly outline laws and regulations for educators. This research has yielded 20 guidelines and principles to assist school leaders in the area of student misconduct and discipline. The major principles derived from this research as discussed in the following section.

Guiding Principles

The following principles were derived from the case analysis included in this study. The themes reflect the legal doctrines related to the First, Fourth, and Fourteenth Amendment protections and provide guidance for school boards and system administrators. The following principles were developed from a review of case briefs and reflect conclusions determined through case analysis.

1. School administrators should be aware that students do not “shed their constitutional rights to freedom of speech of expression at the schoolhouse gate” (*Tinker v. Des Moines Indep. Cmty. Sch. Dist.*, 1969).

2. School administrators should be knowledgeable that “the constitutional rights of students in public school are not automatically coextensive with the rights of adults in other settings” (*Bethel Sch. Dist. v. Fraser*, 1986; *Hazelwood Sch. Dist. v. Kuhlmeier*, 1988 *Morse v. Frederick*, 2007).

3. Schools are granted the authority to discipline students for off-campus conduct when that conduct “materially and substantially interferes with the educational process” (*Doe v. Pulaski County Special Sch. Dist.*, 2002; *J.S. v. Bethlehem Area Sch. Dist.*, 2000).

4. When threats are made, a true threat as interpreted by a reasonable person is viewed as a serious expression to harm or cause injury to another (*Lovell v. Poway Unified School District*, 1996).

5. Schools have the authority to exercise editorial control when it is “reasonably related to legitimate pedagogical concerns” (*Hazelwood School District v. Kuhlmeier*, 1986).

6. There are exceptions to a student's right to notice and to be heard when the student poses a danger to people, property, or continuously disrupts the academic process (*Goss v. Lopez*, 1975).

7. Protection is provided for government officials from civil and liability damages for conduct that does not violate constitutional rights. Government officials are shielded from civil damage liabilities when performing discretionary functions through qualified immunity (*Harlow v. Fitzgerald*, 1982; *Pearson v. Callahan*, 2009; *Wood v. Strickland*, 1975).

8. School administrators should avoid the use of excessive force when dealing with disruptive behavior (*Fennell v. Gilstrap*, 2009; *Peterson, Brown ex rel. Brown v. Ramsey*, 2000).

9. Educators are entitled to exercise control over student expression related to school sponsored activities. *Morse v. Frederick* (2007) affirmed that schools have the authority to regulate student expression in a school setting that would not be censored outside of the school environment.

10. School administrators must work within the scope of discretionary authority (*Harlow v. Fitzgerald*, 1982).

11. Educators are entitled to exercise control over all school activities (*Bethel Sch. Dist. v. Fraser*, 1986).

12. Schools are not required by the constitution to protect students from sexual abuse. Parents maintain primary responsibility for their children in school settings (*J.O. v. Alton Community Unit District 11*, 1990).

13. Suspensions over 10 days require increased procedural safeguards (*Williams v. Dade County School Board*, 1971).

14. The Miranda rule is not extended to school administrators during interrogations. The court found that it was not improper to gain a confession by questioning the student and disciplining the student based on that confession (*Miranda v. Arizona*, 1966).

15. Using canines for the sniffing of cars and lockers does not constitute a search under the Fourth Amendment. However, the actual sniffing of students does constitute a search and is considered highly offensive and intrusive. The physical presence of supervised dogs was not a violation of due process as decided in (*Zamora v. Pomeroy*, 1981).

16. Schools have the discretion to disassociate from inappropriate or offensive materials. School officials are not required to promote all student speech (*Hazelwood School District v. Kuhlmeier*, 1988).

17. Courts determined that a school newspaper was not a public forum for expression and educators are entitled to a standard of control (*Hazelwood School District v. Kuhlmeier*, 1988).

18. School administrators must avoid violation of the Establishment Clause of the First Amendment resulting in an unconstitutional entanglement of religion and government (*Edwards v. Aguillard*, 1987).

19. School administrators must be knowledgeable of student cultural and religious beliefs when enforcing dress code policies. In *Alabama and Coushatta Tribes of Texas v. Trustees of Big Sandy Independent School District* (1983), the United States Court for the Eastern District of Texas, Lufkin Division, found the school district to be in violation of the student's constitutional rights. Native American student hair length is protected expressive activity that does not disrupt or interfere with the lives of other students. Their religious beliefs were protected by the First Amendment as upheld in *United States v. Ballard* (1994).

Conclusions

Education officials at all levels have the right and responsibility to maintain a safe and orderly environment. The landmark case of *New Jersey v. T.L.O.* (1985) established this in limiting students' Fourth Amendment rights. This responsibility must be maintained by complying with the constitutional rights of students. The school environment is difficult to maintain due to the variables involved. School officials are unable to predict and control all behaviors and situations of misconduct and discipline.

The purpose of this study was to examine cases of student discipline within the stated timeframe for legal decisions, causes, and trends. The court cases included in this research identified the areas of general disruptive behavior, alcohol and drug use or possession, student expression, general threats and violent activity, and severe threats of violence. These conduct categories yielded litigation due to claims of First, Fourth, Fifth, and Fourteenth Amendment violations. School officials must be aware of these issues and work to avoid discipline situations where these rights are not clearly upheld.

School officials are often afforded protections when acting within the scope of their authority, as established in *Harlow v. Fitzgerald* (1982) and *Wood v. Strickland* (1975). Of the 79 cases analyzed, 37 resulted in school officials being granted summary judgment based on qualified immunity.

School officials have the discretion to maintain an orderly educational environment by enforcing policies and procedures that may limit student rights. The student's rights in school settings are not parallel with the rights of adults in general settings applying *Frasier (Bethel School District No. 403 v. Frasier)* (1986)). Students have a decreased expectation of privacy and are not entitled to full Fourth Amendment protections. The primary concern of the Fourth

Amendment is reasonableness, and reasonableness is determined based on the circumstances. Therefore, procedures such as questioning, drug testing, and searches are allowable, following standards of law.

School officials are able to take steps in shielding students from inappropriate speech and activities, according to *Kuhlmeier (Hazelwood School District v. Kuhlmeier (1986))*. This supports the censorship of school newspapers and approval of various speeches without violating the student's First Amendment rights. *Hazelwood (1986)* held that the school newspaper was not a public forum for expression and educators are entitled to a standard of control. *Tinker v. Des Moines Independent Community School District (1969)* articulated that educators exercising editorial control do not offend the First Amendment.

The literature review placed great importance on the implementation of appropriate methodologies for student discipline and student behavior management. However, none of the court cases about discipline of students in schools articulated a concern about disciplinary methodologies.

Recommendations for Further Study

The following recommendations for further study are made based on findings and conclusions derived from this study:

1. Research should be conducted to compare judgments between the state and federal levels. A comparison of significant issues, outcomes, and trends should be analyzed between state and federal levels.

2. Research should be conducted to examine variation of litigation outcomes across states.

3. Research should be conducted to compare and contrast trends in student misconduct and discipline across states and regions.

4. Research should be conducted to compare and contrast student misconduct and discipline issues in elementary, middle, and high school settings.

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