

A REVIEW OF COURT CASES INVOLVING OUT-OF-SCHOOL
SUSPENSION AND EXPULSION

by

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ABSTRACT

Research in the field of out-of-school suspension and expulsion in K-12 public schools is limited when focusing on violence, due process, weapons, drugs and alcohol, and search and seizure. Understanding the role of an administrator when dealing with out-of-school suspension and expulsion led the researcher to develop the following question: What should administrators know about court cases involving out-of-school suspension and expulsion.

Cases were identified involving out-of-school suspension and expulsion, in an attempt to answer the research question. The researcher examined over 450 cases in the area related to the topic.

Through legal methodology, the researcher identified 97 cases related to the research question. Case analysis supplied a perspective of the response.

The researcher noticed the reluctance of the courts to become involved in school-related decisions unless an amendment violation is in question. It is vital to understand that students do not shed their rights at the schoolhouse door, but schools are given a tremendous amount of flexibility in order to provide a safe and productive learning environment.

The researcher did not examine cases related to students with special needs. The data provided in this research document focuses on students who do not require special accommodations.

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CHAPTER 1

INTRODUCTION

Introduction

Discipline is the primary process by which the children of all cultures develop the vital morals, values, and attitudes of the culture they inherit (Cowles & Walsh, 1982). Studies show that Americans complain that too many schools are disorderly, undisciplined places (National Center for Education Statistics, 1998). Bennett blamed schools for not holding students accountable for their actions, and followed by an indictment of parents who criticize or sue when schools do try to instill accountability (Bennett, 1999). School discipline has been, continues to be, and likely will continue to be the number one problem and duty of the school principal and his or her teaching faculty. Providing a “safe and secure learning environment” has always been the hallmark of a successful school principal and a successful school. Phi Delta Kappan/Gallup public opinion polls regularly identify discipline as one of the biggest problems facing public and private schools (MacNiel & Martin, 2007).

The National Center for Education Statistics reported that 42% of public schools (approximately 38,500 schools) took a serious disciplinary action against a student, including suspensions lasting 5 days or more, removals with no services (i.e., expulsions), and transfers to specialized schools for specific offenses during the 2007-2008 school year. Suspension was the end result of 76% of these offenses. The types of offenses ranged from physical attack or fights, to insubordination, to possession of some form. Out-of-school suspension or expulsion from school is used by school administrators to reduce violence, drug related occurrences, and other

criminal behavior on school campuses. Out-of-school suspension or expulsion is also used in dealing with situations concerning difficult and challenging behaviors.

Landenson (2011) wrote that suspensions and expulsions withhold provision of educational services from children. The idea, however, that governments, acting in the name of civil society, have a moral responsibility to provide educational services to children, and that, correlatively, children have a moral right to receive them, is central to the moral justification of public K-12 education understood by the vast majority of Americans. A prima facie tension exists between using suspensions and expulsions as disciplinary measures and the principle that every child in the United States has a moral right to a K-12 public education. The key issues, accordingly, as to the limits of a school district's morally legitimate authority to suspend or expel students are the following:

- What are the relevant considerations for deciding in specific cases whether or not withholding provision of educational services from a suspended or expelled student violates his or her right to a public K-12 education?
- What makes these considerations relevant?
- Are there rules for attaching weights to the relevant considerations? If so what are their bases? If not, then what procedure should one follow to arrive at a decision, and why?

Out-of-school suspension or expulsion from school is used to punish the student, make parents aware, and protect students and faculty members. This study will analyze court cases related to out-of-school suspension and expulsion in public and private schools in a K-12 setting. The study seeks to establish the role that the state and Federal courts of the United States play in guiding the use of out-of-school suspension or expulsion in the public school setting. The

conclusions will provide administrators with guidelines concerning issues related to these areas of discipline.

Statement of the Problem

The American Academy of Pediatrics (Pediatrics, 2003) suggested that real and perceived immediate threats to a student's own safety or to the safety of others are some underlying reasons for an out-of-school suspension or expulsion. An out-of-school suspension or expulsion is used in schools for a variety of reasons. The greatest percentage of out-of-school suspensions lasting 5 days or more were the result of insubordination, physical attacks or assault, or alcohol (National Center for Education Statistics, 2010).

The *No Child Left Behind Act (2001)* requires local school and state systems to report on school safety (Lane, 2005). This law also urges school administrators to work closely with all levels of local government ensuring a safe learning environment by enforcing suspension policies (Lane, 2005). It also shields school administrators and staff members from frivolous litigation when rational actions were taken to sustain order in a classroom or on a school campus (Lane, 2005).

In a changing educational climate, administrators are expected to maintain knowledge of laws and court decisions. The problem lies in the previous statement. New court rulings and decisions dictate how and when educators can administer out-of-school suspension or expulsion.

Purpose of the Study

The purpose of this study is to provide an understanding of how out-of-school suspension or expulsion is interpreted within the court system. The outcomes of this study should provide

administrators with guiding principles allowing them to make better-informed decisions relating to out-of-school suspension or expulsion. The research centered on cases that define a school official's authority given to him by higher authority. Court cases researched in this study and acknowledged cases concerned adverse action that transpired between school board officials and students.

Research Questions

The following research questions guided the study:

1. What are the issues in court cases on the authority of school officials in out-of-school suspension or expulsion during the timeframe of 1970 to 2012?
2. What are the outcomes in court cases on the authority of school officials in out-of-school suspension or expulsion during the timeframe of 1970 to 2012?
3. What are the trends in court cases on the authority of school officials in out-of-school suspension or expulsion during the timeframe of 1970 to 2012?
4. What principles for school administrators can be discerned from court cases about the authority of school officials in out-of-school suspension or expulsion during the timeframe of 1970 to 2012?

Significance of the Problem

Knowledge about court decisions resulting from out-of-school suspension or expulsion decisions can help prevent possible future litigation. National data reported that of the 767,900 serious disciplinary actions taken in the 2007-2008 school year, 76% were out-of-school suspensions for 5 days or more (National Center for Education Statistics, 2010). Administrators'

unawareness of recent or landmark court case decisions has often resulted in lawsuits or litigation.

Assumptions

The study was based upon the following assumptions:

1. The West Publishing Company Digest System could provide a sampling of court cases on a multitude of topics
2. Cases that were about the authority of local public school boards related to out-of-school were available through the West Digest system under the topic of “Schools.”
3. Cases for this study can be located by using West Key Number Schools 345k169-177.
4. The editors for the West Education Law Digest System employed a consistent methodology during the timeframe for the study for placing court cases in the key number used by this researcher.
5. The written opinions of the judges in the sample of court cases presented a rich source of data, in the form of documents.

Limitations

Dissertation research has some limitations that are pertinent to the study. This research was limited by the following:

1. Case law for this study was obtained from resources collected from the West American Digest System at McClure Education Library and Bounds Law Library at The University of Alabama and at Mervyn H. Sterne Library at the University of Alabama at Birmingham.

2. The cases for this study included opinions from the United States Supreme Court, the United States Courts of Appeal, The United States Federal District Courts, state supreme courts, and state appellate court.

3. This study is a qualitative, document-based, history-oriented dissertation. Although it uses traditional legal research to find and examine documents, it was not legal research in the sense that the research was not conducted by an attorney.

Delimitations

1. The cases to be reviewed were delimited to those obtained through West's Educational Law Digest, key number Schools 345k169-177.

2. The cases were delimited to those reported in the West Education Law Digest System from 1981 through 2010.

Definitions

Action: "Conduct; behavior; something done; the condition of acting; an act or series of acts" (Black & Nolan, 1990, p. 28).

Annotation: "Brief summaries of the law and facts of cases interpreting or applying statutes passed by Congress or state legislatures which are included (normally following text of statute) in annotated statutes or codes" (Black, 1990, p. 89).

Appeal: "Resort to a superior (i.e., appellate) court to review the decision of an inferior (i.e., trial) court or administrative agency" (Black & Nolan, 1990, p. 96).

Appellant: "The party who takes an appeal from one court or jurisdiction to another" (Black & Nolan, 1990, p. 97).

Appellant Court: “A court having jurisdiction of appeal and review; a court to which causes are removable by appeal, certiorari, error or report” (Black & Nolan, 1990, p. 97).

Brief:

A written document; a written statement prepared by the counsel arguing a case in court. It contains a summary of the facts of the case, the pertinent laws, and an argument of how the law applies to the facts supporting counsel’s position. (Black & Nolan, 1990, p. 192)

Burden of proof: “The necessity or duty of affirmatively proving a fact or facts in dispute of an issue raised between the parties in a cause” (Black, 1990, p. 196).

Case:

A general term for an action, cause, suit or controversy, at law or inequity; a question contested before a court of justice; an aggregate of facts that furnishes occasion for the exercise of the jurisdiction of a court of justice. (Black & Nolan, 1990, p. 215)

Case brief: “A summary of essential components of an opinion” (Statsky & Wernet, 1995, p. 450).

Case law:

The aggregate of reported cases as forming a body of jurisprudence, or the law of a particular subject as evidenced or formed by the adjudged cases, in distinctions to statutes and other sources of law. It includes the aggregate of reported cases that interpret statutes, regulations and constitutional provisions. (Black & Nolan, 1990, p. 216)

Circuit court: “Courts whose jurisdiction extends over several counties or districts, and of which terms are held in the various counties or districts to which their jurisdiction” (Black & Nolan, 1990, p. 242).

Citation: “A writ issued out of a court of competent jurisdiction, commanding a person therein named appear on a day named and do something therein mentioned, or show cause why he or she should not” (Black & Nolan, 1990, p. 243).

Civil law: “That body of law which every particular nation, commonwealth, or city has established peculiarly for itself; more properly called “municipal” law, to distinguish it from international law” (Black & Nolan, 1990, p. 246).

Defendant: “The person defending or denying; the party against whom relief or recovery is sought in an action or suit or the accused in a criminal case” (Black & Nolan, 1990, p. 419).

Dismissal for cause:

With respect to removal from office, means for reasons which law and public recognize as sufficient warrant for removal and such cause is legal cause not merely a cause which the appointing power in the exercise of discretion may deem sufficient. (Black & Nolan, 1990, p. 644)

Disposition: “The act disposing; transferring to the care or possession of another” (Black & Nolan, 1990, p. 471).

Due process/Law:

Law in its regular course of administration through courts of justice. Due process of law in each particular case means such an exercise of the powers of the government as the settled maxims of law permit and sanction, and prescribe for the class of cases to which the one in question belongs; a course of legal proceedings according to those rules and principles which have been established in our systems of jurisprudence for the enforcement and protection of private rights. (Black & Nolan, 1990, p. 500)

Fact: “Any information concerning a person, thing, or occurrence that is obtained through the senses” (Statsky & Wernet, 1995, p. 452).

Federal Court: “The court of the United States (as distinguished from state, county, or city courts) as created either by Article III of United States Constitution, or by Congress” (Black & Nolan, 1990, p. 610).

Holding: “The answer to a legal issue in an opinion; the result of the court’s application of one or more rules of law to the facts of a dispute” (Statsky & Wernet, 1995, p. 452).

Issues: “Whether or in what manner a particular rule of law applies to a particular set of facts” (Statsky & Wernet, 1995, p. 160).

Law: “That which is laid down, ordained, or established; a rule or method according to which phenomena or actions co-exist or follow each other. Law, in its generic sense, is a body of rules or action or conduct prescribed by controlling authority, having binding legal force” (Black & Nolan, 1990, p. 844).

Litigations: “A lawsuit; legal action, including all proceedings therein. Contest in a court of law for the purpose of enforcing a right or seeking remedy. A judicial contest; a judicial controversy; a suit at law” (Black & Nolan, 1990, p. 934).

Opinion: “The statement by a judge or court of the decision reached in regard to a case tried or argued before them, expounding the law as applied to the case, and detailing the reasons upon which the judgment is based” (Black, 1990, p. 1092).

Plaintiff: “A person who brings an action; the party who complains or sues in a civil action and is so named on the record. A person who seeks remedial relief for an injury to rights; it designates a complaint” (Black & Nolan, 1990, p. 1150).

Precedent:

An adjudged case or decision of a court, considered as furnishing an example or authority for an identical or similar case afterwards arising or a similar question of law. Courts attempt to decide cases based on principles established in prior cases. Prior cases, which are close in facts or legal principles to the case under consideration, are called precedents. A rule of law is established for the first time by a court for a particular type of case and thereafter referred to in deciding similar cases. (Black & Nolan, 1990, p. 1176)

Reasoning: “The explanation of ‘why the court reached the result it did or, more technically, why a legal issue led to a particular holding” (Statsky & Wernet, 1995, p. 455).

Statutes:

A formal written enactment of a legislative body, whether federal, state, city, or county; an act of the legislature declaring, commanding, or prohibiting something; a particular law enacted and established by the will or the legislative department of government; the written will of the legislature, solemnly expressed according to the forms necessary to constitute its law of the state. Such may be public or private, declaratory, mandatory, directory, or enabling, in nature. (Black & Nolan, 1990, p. 1410)

Suit:

A generic term, of comprehensive signification, referring to any proceeding by one person or persons against another or other in a court of law in which the plaintiff purses, in such court, the remedy which the law affords him for the redress of an injury or the enforcement of a right, whether a law or in equity. (Black & Nolan, 1990, p. 1434)

Organization of the Study

Five separate chapters define this research. Chapter 1 is the introduction of the study.

This chapter includes the introduction, a statement of the problem, purpose of the study, research questions, significance of the study, assumptions, limitation, delimitations, and definitions.

Chapter 2 contains the literature review. It comprises all information acquired from literature reviewed related to suspension in the K-12 setting. Chapter 3 describes the methodology and procedures used for this study. Chapter 4 will consist of 97 court cases that focus on suspension, as well as analyses of case briefs. Chapter 5 presents a study summary, conclusions, and recommendations for further study.

CHAPTER 2

REVIEW OF LITERATURE

Introduction

It is an obvious folly for school authorities to be unaware of how the law affects them, to pretend that litigation could never involve them, or to be naïve enough to assume that the school always wins. It is equally foolish, however, to be paralyzed into disciplinary inaction out of fear of a possible lawsuit (Ramsey, 1981). The most rudimentary step that all administrators should take is to become copiously familiar with current disciplinary law.

A close connection between punishment and education has always existed. The writers of *Proverbs*, convinced that the object of instruction was to make a man wise, were also certain about one means to that end: “He that spareth his rod hateth his son; but he that loveth him chasteneth him diligently” (xiii, 24). Indeed the Hebrew word that stands for instruction also means punishment (Boyd, 1954).

Schools are permitted by statute and common law to regulate the conduct of their students. In matters of rule-making, investigation of misconduct, determination of guilt, and assignment of punishment, schools generally have broad latitude. However, both state statutes and the Constitution constrain the performance of all these functions. The overriding constraint is that a school may only limit the behavior of its students in ways that are reasonably related to the promotion of legitimate educational goals (Geel & Imber, 2010).

The Supreme Court’s decision has now stated as a matter of constitutional law what most school systems have already been doing. As the Court’s majority opinion noted, the minimum

requirements it has imposed “are, if anything, less than a fair-minded school principal would impose on himself in order to avoid unfair suspension.” If this is true, then the Court is correct that these minimum requirements “will provide a meaningful hedge against erroneous action” without imposing unnecessary and burdensome formalities on school administrators (Phay, 1977).

Accountability policies such as the *No Child Left Behind Act of 2001* and “zero tolerance” policies may explicate why school administrators resort to measures such as suspension from school, in dealing with disruptive students (Imich, 1994; Leone, Mayer, Malgren, & Meisel, 2000; Skiba, Peterson, & Williams, 1997).

In 2002-2003, more than 3.1 million children in America were suspended and another 89,000 were expelled. A great deal of statistical and anecdotal evidence supports the conclusion that children are being unfairly suspended and arbitrarily excluded from school for incidents that could have been handled very easily using alternative methods (Advancement Project & Civil Rights Project 2000).

In 2006, data indicated that about 1 out of every 14 students was suspended from school at least once during the past school year. From 2002 to 2006 the number of out-of-school suspensions increased from 3.1 million to 3.3 million, the overall percentage of students remained about 7% (The National Center for Educational Statistics, 2010).

The Supreme Court’s decision has now stated as a matter of constitutional law what most school systems have already been doing. As the Court’s majority opinion noted, the minimum requirements it has imposed “are, if anything, less than a fair-minded school principal would impose on himself in order to avoid unfair suspension.” If this is true, then the Court is correct that these minimum requirements “will provide a meaningful hedge against erroneous action”

without imposing unnecessary and burdensome formalities on school administrators (Phay, 1977).

K.T. Lundell (1993) stated, “When confronted with severe behavior situations, educators tend to react by utilizing a limited number of traditional options.” He also contended

the use of suspension as a discipline system is widespread and growing at a rapid pace. It is estimated that, nation-wide, more than a million students are suspended from our schools each year. Approximately 40% of our elementary schools and 85 percent of secondary schools rely on this procedure. (Lundell, 1993, p.68)

The authority of school personnel to suspend or expel pupils is not confined to punishing pupils for acts committed at school, but may be exercised in proper cases in respect to offenses committed off school property and outside of school hours, where the misconduct reflects adversely on the management and efficiency of the school, the good order and discipline of the pupils, or the respect and authority of a school employee. Such powers, however, must be exercised with matters of school jurisdiction as distinguished from the jurisdiction of the parents (Drury, 1967).

In the Education and Urban Society, Kaeser (1979) cited the following possible rationale for using this approach:

1. Suspension alleviates the problem situation for the moment.
2. Suspension is an immediate response to inappropriate behavior.
3. This approach gains the attention of parents.
4. Many educators hold the belief that using suspension maintains order in the classroom so that the rights of the group are preserved. (p.465-84)

Excluding a student from attending school is sometimes imposed as a disciplinary tactic, intended primarily to punish the offender and secondarily to deter other students. School administrators have reported that removing a child from school provides a cooling-off period for

the offending student as well as for frustrated educators and administrators. At home, suspensions or expulsions are also sometimes seen as warnings for parents who may have not previously taken their child's misbehavior seriously and who may have considered problem behaviors purely the school's responsibility (Pediatrics, 2003).

In regard to a school official's authority outside the school building or off school grounds, *O'Rourke v. Walker* (1925) is the most explicit case. This case was brought about because of corporal punishment; implications and rulings through the courts far outreach corporal punishment. Both the lower court and the appellate court upheld the following:

(1) that the conduct of the plaintiff boys had a tendency to demoralize the other pupils of the school and to interfere with the proper conduct of the same; (2) that the acts of the plaintiff were detrimental to the good order and best interest of the school; (3) that the defendant, as the principal of said school, in the absence of rules established by the school board or other proper authority, had a right to make and enforce all necessary and proper rules for the regulation of the school and pupils during school hours and afterwards; (4) that said punishment administered by the defendant was reasonable and proper. (Alexander & Alexander, 1995, p.149)

The new law defines disruptive students as elementary or secondary students, under the age of 21, who are substantially disruptive to the educational process or substantially interfere with the teacher's authority over the classroom (Hanks, 2004)

The always-complex job of maintaining order in school and disciplining students when they misbehave has become a very high profile function in recent decades. Parents consistently place school safety at or near the top of their list of educational concerns. Highly publicized incidents of shootings and other serious criminal acts at school have led to public and legislative pressure to rid schools of violence, weapons, and drugs. Researchers have concluded that when the atmosphere of the school leads students to feel unsafe, learning decreases, thereby further emphasizing the need to maintain an orderly environment (Geel & Imber, 2010).

In *Richardson v. Braham* (1933), the Nebraska court determined that the extent of school authority goes beyond school boundaries and may supersede parental authority in certain circumstances.

General education and control of pupils who attend public schools are in the hands of school boards, superintendents, principals, and teachers. This control extends to health, proper surroundings, necessary discipline, promotion of morality and other wholesome influences, while parental authority is temporarily suspended. (Alexander & Alexander, 1984, p.160)

School authorities have a wide range of authority in the assessment of students and their behavior; the use of that authority cannot be so arbitrary as to permit either improper or irrational exercises of discretion. Appropriate use of discretion essentially depends on a school's documentation process of its rationale and how that rationale correlates to the appropriate educational end that the "violated" rule was designed to accomplish.

In daily contact with large numbers of children, school personnel find it necessary to place certain restrictions upon the personal freedom of pupils if they are to provide the maximum educational opportunities for boys and girls and if they are to fulfill their responsibilities to the community and the state. Realizing the necessity for orderly conduct and good discipline in the school, the legislatures of the many states have seen fit to clothe boards of education with broad discretionary powers in the management and control of pupils (Bolmeier & Flowers, 1964).

This chapter will examine individual schools and school districts uses of out-of-school suspension. Out-of-school suspension is employed in a range of school-related incidents. This study will focus on six categories of out-of-school suspension.

Part I of the literature review examines out-of-school suspension or expulsion related to due process. Part II of the literature review examines out-of-school suspension or expulsion related to drugs and alcohol. Part III of the literature review examines out-of-school suspension

or expulsion related to weapons. Part IV of the literature review examines out-of-school suspension or expulsion related to acts of violence. Part V of the literature review examines out-of-school suspension or expulsions related to search and seizure.

The researcher did not examine out-of-school suspension or expulsion as it relates to First Amendment cases due to the thorough and recent research by two individuals. Mason (2009) completed a qualitative research study concentrating on federal cases that relate to a student's freedom of speech and expression. Through his in-depth research, Mason addressed the issues, trends, outcomes, and principles as they relate to the First Amendment. Edwards (2011) examined cases from 2000 to 2010 based on cases citing *Bethel School District vs. Fraser* (1986). *Bethel School District vs. Fraser* was a landmark case on students' right to free expression as it relates to the First Amendment. In 1986, the Supreme Court reversed a lower court decision and ruled in favor of the administrator, due to the nature of the unsuitable speech and its exposure to the student audience, thereby changing the decrees for control of student expression in school (Chiang, 2007).

The researcher did not examine out-of-school suspension or expulsion in cases involving students with disabilities. IDEA regulations define a change of placement as removal of the student from the current educational placement for more than 10 consecutive days or a series of removals that constitute a "pattern" exceeding 10 school days in a school year due to the length of each removal, the total amount of time that students is removed, and the proximity of the removals to one another (Lane, Connelly, Mead, Gooden, & Eckes, 2005). Legislative mandates have increasingly progressed into separate systems--one for general education students and another for students with disabilities (Ysseldyke, Algozzine, & Thurow, 1992). *Discipline of Special Education Students: Legal Implications for Policy and Procedure* (Thomason, 2009)

researched student with disabilities legislative reform from Education of All Handicapped Children's Act (EAHCA), P.L. 94-142 (20 U.S.C. § 1415[k]), and the Individuals with Disabilities Education Act (IDEA).

Thomason (2009) examined the legal implications for policy and procedures when disciplining special education students. The study provided the basic framework of the federal laws for school personnel and administrators to work within. Werner (1998) examined the matter of school violence instigated by students with disabilities and found it has increasingly become the focus of judicial interpretations. Werner also noted there has been a dramatic increase in technology, interventions, and strategies for addressing inappropriate behaviors. As a result of these advances, children, schools, and society at large have benefited in addressing behavior issues.

Due Process

Clause 39 of the Magna Carta best defined procedural due process. King John of England promised, "No freemen shall be taken or imprisoned or disseised or exiled or in any way destroyed, nor will we go upon him nor send upon him, except by the lawful judgment of his peers or by the law of the land." Therefore, due process means that all legal rights that are maintained by an individual must be respected by the state.

Once a state mandates that all children must be educated, as all states have, every child in the state becomes entitled to an education. In legal terms, children are said to have property rights in relation to education--that is, education is considered property that children are entitled to. The Fourteenth Amendment prohibits states from depriving anyone of property without due process of law, and because an education is considered property, the due process clause applies

when a school wants to take away a student's right to attend classes for a significant amount of time. Due process involves following a set of procedures designed to make sure that students are treated fairly before punishment is imposed (Hinchey, 2001).

Cooper and Strobe reviewed over forty cases that focused on the question of procedural due process required for long-term suspension or expulsion. Several appropriate findings associated to long-term suspension and expulsions are:

1. Admission of guilt often resulted in courts ruling that *Goss* minimum procedures were sufficient.
2. Notice concerning longer exclusions should generally inform the student in writing of the charges and the particular school rule that was violated.
3. Notice also should include the date, time, and place of a hearing with sufficient time allowed for the student to prepare and adequate defense.
4. Notice should inform the student of additional rights such as the right to present evidence; the right to retain counsel; the right to call and cross-examine witnesses; the right to examine evidence presented; and other right that the local system may accord.
5. Generally, the courts have required several days between notice and the hearing in order that students may present a fair defense.
6. The hearing, itself, must give the student somewhat more adversarial-type procedures than would be required for shorter suspensions.

The U.S. Constitution guarantees every person within the jurisdiction of the United States protection against arbitrary government action through the Due Process Clause. The Due Process Clause that protects against arbitrary action by federal action by the federal government can be found in the Fifth Amendment, which states in pertinent part,

No person shall . . . be deprived of life, liberty, or property, without due process of law.” The Due Process Clause applicable to states and state agencies, including school boards, is in the Fourteenth Amendment, which provides in pertinent part: “No State shall . . . deprive any person of life, liberty, or property, without due process of law. (Russo, 2008, p. 267)

In *Tinker v. Des Moines Community School District* (1969), the court stated,

Although Ohio may not be constitutionally obligated to establish and maintain a public school system, it has nevertheless done so and has required its children to attend. Those young people do not “shed their constitutional rights” at the schoolhouse door. (p. 713)

The decision of the court affirmed that students maintain a certain level of constitutional rights, even when they fall under the “umbrella” of school authority.

In *Gross v. Lopez* (1975), the court sustained that under the “due process law” school districts must establish minimum requirements of notification and hearing before a suspension of 10 days or less which includes: student must be notified orally or by written notice of the allegations against them, if the allegations are denied, then he/she must be given an explanation of the evidence the authorities have and an opportunity to state his/her version of the incident. An informal meeting must transpire before a suspension, unless the student is still considered to be an ongoing disruption of the academic process or to other persons or property.

Interestingly enough, the court did not specifically discuss the exact process to be provided when assigning a long-term suspension of more than 10 days. The court simply stated that “longer suspensions or expulsions for the remainder of the school term or permanently may require a more formal procedure” (*Gross v. Lopez*, 1975, 419 *U.S.* at 582).

The justices were well aware of the complexities of our schools and of the need for order and discipline. They recognized that school officials need the power of suspension, but they saw no reason such power could not be exercised fairly. At a minimum, they ruled, fairness would require an informal notice and a hearing. This means that the student should be told of the charges against him, orally or in writing, and if he denies them, must be given “an explanation of the evidence the authorities have and an opportunity to present his side of the story.” This procedure can be carried out quite informally: as the court pointed out, good teachers and administrators have followed such fair procedures for a long time, without being forced by the law (Schimmel & Fischer, 1977).

In *Wood v. Strickland* (1975), the Courts ordered school districts to reinstate students without penalty to grades and required school records to be expunged or any reference to the illegal suspension or expulsion to be removed. Also, in *Wood v. Strickland*, the Supreme Court ruled that school officials could be held liable for monetary damages under the Civil Rights Act of 1871, if they arbitrarily violated students' protected rights in disciplinary proceedings. The Court declared the ignorance of the law could not be used as a valid defense to shield school officials from liability if they should have known that their actions would impair "clearly established" rights of students. Under the *Wood* proclamation, a showing of malice is not always required in order to prove that the actions of school officials were taken in bad faith. However, a mere mistake in carrying out duties does not render school authorities liable (Cambron & McCarthy, 1981).

Merelman suggest, "that the importance of maintaining order in schools is so great that they are perhaps not appropriate institutions for inculcation of citizenship values and skills."

Cloud's research concluded that a board's decision to expel a student must be centered on rational basis due process. The use of discretion and common sense is expected in the process. Clouds states, "where weapons possession is alleged, administrators and board members have a reasonable duty under *Seal* to determine "knowing" or "conscious" possession before suspending or expelling the student." When educational leaders fail to do so, the potential for violating the student's Fourteenth Amendment and equal protection under the law.

Without exception, every student has the constitutional right to due process. All long-term suspensions are required to be evaluated through the formal hearing format. At that point, the student has the right to

- Be made aware of the rules violated
- Have a three person panel to decide the suspension/expulsion

- Present information on his/her behalf
- Bring legal counsel
- Protect the his/her privacy, by requesting that the hearing be closed to the public

The Principal's Legal Handbook (Lane, Connelly, Mead, Gooden, Eckes, 2005) advises that public school administrators adhere to the subsequent disciplinary routines:

- The legal duty to control of school must be balanced with the procedural due process entitlements of students.
- Due process is neither a fixed nor stagnant concept, because it changes from situation to situation and is dependent upon a continuum of factors.
- Fairness is the basic precept of contemporary procedural due process in public schools.
- The technicalities of criminal procedure including *Miranda*-type warning, presence of an attorney, and confrontation and cross-examination of witnesses do not automatically transfer into school disciplinary procedures.
- Timely and adequate notice, an explanation of the charges against the student, and a chance to be heard are the minimal elements of procedural due process in student disciplinary episodes.
- Procedural due process requires school administrators to be predictable and consistent and to exercise caution, thoughtful restraint, and common sense when disciplining students.
- Student discipline must incorporate sanctions for misbehavior that were previously announced to students and their parents, directly linked to modes of misbehavior, and must follow the dictates of reasonableness.

The massacre at Columbine High School brought amazing awareness to the importance of school safety. As a result, school officials hastily implemented new prevention strategies. While many of the approaches are sensational and flashy, nothing is more effective than old-fashioned practices of preventing and dealing with troublesome incidents in schools. After a close analysis of *Fuller*, Doty determined several basic concepts that school leaders should consider when developing due process policies:

1. The discipline policy must be specific enough to give students fair warning of prohibited conduct, but does not need to precisely define every term.
2. Communication with parents or guardians regarding the details of expulsion and hearing rights should be prompt and in writing.
3. A first-level expulsion hearing should take place before the ten school days of a Goss suspension expire.
4. The first-level due process hearing should be conducted by an impartial hearing officer.
5. The due process hearing should provide the student the opportunity to appear with legal counsel and conduct cross-examination.
6. District officials should allow an appeal to, or review by, the board of education.
7. The district must keep and be prepared to produce data demonstrating that it does not use racial criteria to enforce its disciplinary policy.
8. All school officials must act professionally and strictly adhere to district policy.

Epley indicates that support for school districts and authorities are apparent in many jurisdictions. Some courts believe that enough discipline is not present in public schools; indeed some other courts believe that students do not have constitutional protection for punishment. Courts are often hesitant to place themselves between disobedient students and school authorities. The United States Fifth Circuit has stated school matters are best decided within the school system. If someone takes exception to the rules and its harshness, the proper setting for petition to amend rules is the school board, not the courts.

Drugs, Alcohol, and Tobacco

In 2009, the Center for Disease Control and Prevention released data from a survey indicating the number of high school students that had at least one drink of alcohol on school

property on at least one occasion. Disregarding gender differences, the results of the survey were telling. The survey indicated that 16,024 students had at least one drink at school 30 days prior to the survey. The same survey indicated that the percentage of cigarette, tobacco, and marijuana use at school had zero change or decreased from 1993 to 2009. Although the survey revealed that students being offered, sold, or given illegal drugs at school remained unchanged, it was four to five times more likely to occur than any other of the survey responses (High School Youth Risk Behavior Survey, 2009).

If action is deemed necessary after suspected drug use has come to the administrator's attention, it has been recommended that,

Whenever a principal has reason to know or suspect that a student is engaged in criminal actions--for example, a violation of the drug control laws--he would be well advised to protect both himself and the school by taking action with deliberate caution; not the caution of refusing to act, but the care of having a reliable witness to each step he takes, keeping an accurate record of what he says and does, and reporting every action to those who have a right to know, such as the superintendent and the local board, colleagues in the school, and especially parents. (Giesselmann, 1976, p. 265)

If school officials determine that there is substantial evidence of contraband being present, a search--including the use of dogs--may be conducted. Locker searches require a lesser burden of reasonable cause than do searches of a student's person or effects. Boards should develop and put into effect policies governing warrantless searches. Searches must be reasonable (Green, O'Reilly, 1992).

Other surveys focused on the problem of drugs at school. Data from one national survey showed that in 2005, 62% of high school students and 28% of middle school students reported attending schools where drugs were used, kept, or sold. These figures represented a 47% increase since 1992 for middle-school students and a 41% increase for high school students (Finn & Willert, 2006).

In the case of *Board of Education of Independent School District No. 92 of Pottawatomie County v. Earls* (2002), the courts held that Tescumeh's policy is a practical way of furthering the School District's central interest in preventing and discouraging drug use among its schoolchildren and their Fourth Amendment was not violated. Due to the evidence of increased drug use in the Tescumeh schools, enacting a drug testing policy was viewed as "reasonable."

The majority of adult Americans drink alcohol. More than half the respondents in the national household survey ages 12 and older said they had consumed at least one alcoholic beverage in the past 30 days, and 50% of high school seniors (all of whom were underage) said that they had done so. Criminologists mean two things when they say that alcohol and violence are related: (1) drinkers have higher rates of violence than nondrinkers, and (2) the more someone drinks, the greater the likelihood that he or she will inflict violence on another person (Goode, 2008).

A school board in Ohio sought further review of an injunction in favor of a high school football player who was suspended for 40% of his team's games during his senior year because he was arrested for possessing alcohol. Reversing in favor of the board, an appellate court reasoned that because the student had no constitutional right to participate in the extracurricular activity of sports, he lacked the ability to challenge his penalty. The court also noted that the student received notice of the potential punishment in his athletic code and due process in two hearings before the suspension was imposed (Russo, 2010).

Weapons

Customarily, weapons prohibited on school grounds dealt with or focused primarily on guns and explosives. Recently, many states expanded the definition of a weapon. Georgia defined weapons in its school laws as follows:

any pistol, revolver, or any weapon designed or intended to propel a missile of any kind, or any dirk, bowie knife, switchblade knife, ballistic knife having a blade of three or more inches, straight-edge razor, razor blade, spring stick, metal knuckles, blackjack, any bat, club, or other bludgeon-type weapon, or any flailing instrument consisting of two or more rigid parts connected in such a manner as to allow them to swing freely, which may be known as a nun chahka, nun chuck, nunchaku, shuriken, or fighting chain, or any disc, or whatever configuration, having at least two points or pointed blades which is designed to be thrown or propelled and which may be known as a throwing star or oriental dart, or any weapon of like kind, and any stun gun or taser. (Code 1-33)

The 1990 Gun-Free School Zones Act had the support of the National Education Association, the American Association of School Administrators, the National School Boards Association, and the American Academy of Pediatrics. The act, which became effective December 3, 1990, made it illegal to possess knowingly a firearm “in a place that the individual knows, or has reasonable cause to believe, is a school zone” (Russo, 2008, p.357).

In 1993, the National Center for Safety compiled a list that defined weaponry. The following list was gathered from both formal and informal sources:

Guns, heavy belt buckles, knives, heavy false gold chains, screwdrivers, box cutters, mace, pen guns, pens/pencils, auto batons, baseball bats, weighted gloves, rocks, ammonia-filled spray bottles, brass knuckles, padlocks, large rings, metal nail files, two-and-three finger rings, steelies (ball bearings or steel marbles), scissors, nunchukas, stun guns, slap jacks, chairs, and bayonets.

Phay (1977) stated,

School boards, in discharging their responsibility to maintain orderly schools, may forbid students to bring onto school grounds weapons or instruments that might be dangerous to the possessor or other students. A student who knowingly violates such a rule may be suspended or expelled. (p.36)

One satisfactory school board regulation on weapons provides as follows:

A student shall not knowingly possess, handle, or transmit any object that can reasonably be considered a weapon (1) on the school grounds during and immediately before and immediately after school hours, (2) on the school grounds at any other time when the school is being used by a school group, or (3) off the school grounds at any school activity, function, or event.

This rule does not apply to normal school supplies like pencils and compasses but does apply to any firearm, any explosive including fire-crackers, any knife other than a small penknife, and other dangerous objects of no reasonable use to the pupil at school. (p.36)

Statistics, through the U.S. Department of Education and the “2007-2008 School Survey on Crime and Safety Report,” provide data from 83,000 public schools, indicating 67% of schools reported some form of weapons related incidents. Often viewed as immune to such threats as weapons, 55.1% of primary schools reported weapons-related episodes. The School Survey on Crime and Safety reported during the 2009-2010 school year, that 39% of public schools (32,300 schools surveyed) took at least one disciplinary action--including suspension lasting 5 days or more. Thirteen percent took action for the use or possession of a weapon other than a firearm or explosive device.

Violence

Historically, three types of students exist in every school. Group one, representing 80% of the student body, seldom violates rules or principles. Group two, representing 15% violate rules on an infrequent basis by refusing school rules and principles. Finally, group three, representing 5% of the student body, consists of individuals who are recurring rule breakers and generally out of control, they are the most likely group to commit acts of violence in and out of the school setting.

Nolte determined that public schools could no longer be deemed the “safe place” for study and reflection once suggested by common law. He also states, “when children act in a criminally

disruptive manner in school, they can expect that their actions will spark an equally forceful reaction from their teachers. Not all these reactions will be approved by the courts.”

A study conducted by the National School Board Association (1994), “Violence in the Schools,” stated that 82% of school administrators believed that violence had increased in the school, especially student-on-student violence. The Department of Justice reported that the number of violent incidents was less, but the viciousness of the incidents was quite alarming.

The 1978 Safe School Study Report to Congress revealed to the nation the first astonishing statistics regarding violence in America’s public schools. The report indicated that roughly 5,200 teachers and 282,000 secondary students were physically assaulted each month (National Institute of Education, 1978).

In 1991, the Federal Bureau of Investigation confirmed that violent crimes by juveniles of ages 10-17 increased during the 1980s and continued to surge in the 1990s. The crimes were carried out by children who represent different social classes, lifestyles, races, and geographic areas of the country. They brought their weapons, drugs, grudges, problems, anger, and potential for danger to school with them when they came (Lawton, 1992).

In 2012, data from the U.S. Department of Education, National Center for Education Statistics, published the “2007-2008 School Survey on Crime and Safety” report of crime by incident type and selected school characteristics. In this report, violent incidents included rape, sexual battery other than rape, physical attack or fight with or without a weapon, threat of physical attack with or without a weapon, and robbery with or without a weapon. Of the 83,000 schools reporting, 75.5% reported a violent incident, with primary schools reporting 65.1%, middle schools 94.3%, and high schools 94.0%. The data reflected occurrences in school buildings, on school grounds, on school buses, and at places that hold school-sponsored events or activities.

Indicators of School Crime and Safety: 2011 published data collected for the 2009-2010 school year. Physical attacks or fights prompted the greatest percentage (29%) of out-of-school suspensions or expulsions. Of all public schools, 29% reported one or more physical attacks or fights during the school year. Predictably, incidents increased as grade levels did, with primary schools reporting 13.2%, middle schools 49.7%, and high school 62.6%.

After an honors-level sixth-grader in Wisconsin stabbed a peer with a pencil, a hearing officer, who was persuaded by the student's remorsefulness and the fact that he had no prior disciplinary infractions, believed that the 5-day suspension that he served was adequate punishment. Even so, the school board rejected the hearing officer's recommendation and imposed an expulsion that ran from May of that year through the second semester of the next year. On further review, the state's Superintendent of Public Instruction, a trial court, and appellate panel all agreed that the board lacked the statutory authority to refuse to comply with the hearing officer's recommendation (Russo, 2007).

Bullying is a subcategory of violent behavior that is becoming increasingly prominent in public schools. Docking (1980) considered bullying as repeatedly humiliating another person who is perceived as weaker or less capable than the bully. Data compiled from the U.S. National Center for Education Statistics and U.S. Department of Justice, Bureau of Justice Statistics, Indicators of School Crime and Safety: 2009, NCEs 2010-2012 revealed that 31.7% of all school-age children suffered from some form of bullying. Docking wrote that bullying has increasingly become one of the hottest topics in schools due to the rash of school shootings and physical occurrences resulting from previously reported incidents.

Search and Seizure

The Fourth Amendment to the Constitution of the United States is the basis of the search and seizure law. The amendment states:

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized.

Two prime standards have developed under the fourth amendment: “probable cause” and “reasonableness” in all circumstances. In *Carol v. United States* (1925), probable cause is

the standard explicit in the amendment and exists where the facts and circumstances within the searcher’s knowledge, and received from trustworthy sources, are sufficient to warrant a person of reasonable caution to believe that a particular offense has been committed.

The reasonableness standard was utilized in *New Jersey v. T.L.O.* (1985) and will be discussed later in the chapter.

Although the Fourth Amendment was designed to protect citizens from the federal government, the Supreme Court in 1961 determined that the amendment covers state action through the Fourteenth amendment. The amendment was designed to protect from “unreasonable searches,” thus a search is legal as long as it is reasonable. Difficulty arises when trying to determine “reasonable.”

The introduction of drugs and other contraband into high schools has increased the occasions for student search and for student claims of immunity from search without a warrant (court order) under the Fourth Amendment. This conflict was between official interest and student privacy more than the abstract power to search (Valente, 1987).

Following an anonymous tip, officials searched a student’s bag, locker, and person, all of which he consented to before they examined his car. School resource officers were called to

accompany the student to the search of his car, which led to the discovery of drugs and his being questioned by a school resource officer. On further review of the denial of the student's motion to suppress the evidence, an appellate court in Wisconsin affirmed that since the student was in the custody of school officials at the time of the search and not the police, the search was valid because the tip rendered it justified at its inception. According to the court, extending the search to the car was reasonable because part of the policy required all students who parked on school grounds to sign a form consenting to have their cars searched (Russo, 2010).

When *New Jersey v. T.L.O.* (1985) reached the Supreme Court, many hoped that the confusion of search and seizure would be clarified. Although it did provide new guidelines for search and seizure procedures for public schools, there were many unanswered questions. By his own acknowledgment, Chief Justice White, author of *T.L.O.* majority opinion, offered a list of concerns not addressed: (1) Does the *exclusionary rule* apply to the fruits of an unlawful search in the public school? In other words, will a court throw out the case because the school official did not follow proper procedure in obtaining evidence? (2) Do students have privacy rights in connection with their *lockers, desks or other storage areas* the school provides? If so, what are the standards for searching these areas? (3) Do the standards change if the police are involved? Does it matter that the police made the request to search as opposed to the school requesting the assistance of the police? (4) Is it necessary to have *individualized suspicion* before a search takes place? In other words, must school authorities know exactly which students are suspected of carrying contraband? If this is a requirement, will it have implication for searching groups of students (Rossow, 1987)?

School officials or administrators must apply reasonableness in all search and seizure cases. In *New Jersey v. T.L.O.* (1985), a student was searched for cigarettes, but marijuana was

also found during the search. The court responded to the search of cigarettes by defining or explaining the rules of evidence:

But it is universally recognized that evidence, to be relevant to an inquiry, need not conclusively prove the ultimate fact in issue, but only to have any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence. (*Id.* at 745-46)

Simply put, White wrote, “It was the sort of ‘common sense’ conclusion(s) about human behavior upon which ‘practical people’--including government officials--are entitled to rely” (*Id.* at 746).

The second search raised the issue of reasonable scope. Rolling papers were exposed during the search for cigarettes and because of the administrator’s experience, rolling papers could indicate the presence of marijuana. Through a series of related discoveries, the administrator continued searching as each new piece of information led to a new search. The court rejected all of *T.L.O.*’s (1985) arguments of an illegal search and upheld the administrator actions due to the reasonable scope conducted in the searches.

Other courts, because of the doctrine of *in loco parentis* (in place of parent), have relaxed Fourth Amendment restrictions. The Supreme Court of Georgia stated that school officials were government officials and were “subject to some fourth amendment limitations.” The court ruled that school officials must be authorized to construct and administer reasonable school rules. A Florida appeals court, in 1979, determined the doctrine of *in loco parentis* validates and necessitates the constitutional limitations related to search and seizures.

Essentially, in school searches, the courts have had three different options available in applying the Fourth Amendment: (1) the Fourth Amendment does not apply because school officials function as private citizens; (2) the Fourth Amendment does apply, but the doctrine of *in loco parentis* lowers the standard in determining the reasonableness of a search; or (3) the Fourth

Amendment applies, and probable cause is required before conducting a search (Cambron & McCarthy, 1981).

As a result of numerous cases, Mawdsley and Russo (2005) developed guidelines for searches based on student tips:

1. The more intrusive the search, the more closely that courts will scrutinize the nature of an informant's information and the motives of the informant.
2. Each school should have at least one male and one female employee trained to conduct searches.
3. Intrusive searches that require pat downs or removal of clothing must be conducted only by school employees of the same gender as the student.
4. While courts are likely to uphold student searches for weapons based on anonymous tips, in large part because the risk of not conducting a search is too great, but also in part because such searches are less likely to involve intrusive strip searches, school officials should still try to obtain as much information collaboration as possible under the circumstances.
5. Anonymous tips regarding concealed drugs that may require a strip search will probably require some measure of collaboration, such as the suspicious behavior of the accused student or history of discipline problems.
6. Tips from students whose names are known require that a school official inquire of a teacher or other school employee familiar with the informant whether he/she has any animus or ulterior motives in providing the information.
7. Any student who is the subject of a tip must be informed before any search takes place of the content of the informant's information and must be afforded an opportunity to respond.
8. Engage the school district's attorney to update student handbooks regarding student searches and to conduct orientation sessions with school personnel responsible for searches.

In the *Matter of Gregory M.* (1993), the New York State Court of Appeals ruled in favor of the school in a "frisk" of a student's bag. The court determined that there must be a balance between a student's acceptable expectation of privacy and the basic need to administer school rules. The "frisk" was considered constitutional because initially, security personnel only touched the outside of the bag after hearing a "thud" when the bag hit the ground and rules preventing guns in schools was of the utmost urgency.

O'Hara (1984) concluded if constrictions are placed on schools officials, comparable to those placed on law enforcement; every problem may become a police matter. If the requirements for searches are lessened to a certain degree for school officials, students' rights are lessened and school officials must make determinations of reasonableness centered on individual circumstances.

CHAPTER 3

METHODOLOGY AND PROCEDURES

Introduction

This research was qualitative in nature and based on a study of court cases related to out-of-school suspension. Qualitative research is the “assumption that individuals construct social reality in the form of meanings, interpretations, and these constructions tend to be transitory and situational” (Gall, Borg, & Gall, 1996, p. 771). Simply put, qualitative research examines relationships using written data. The focal method of qualitative research used in this paper will be court cases heard in the United States Supreme Court, the United States Courts of Appeal, the United States federal district courts, and the state appellate courts, from 1971 to 2012. Each court decision will be briefed and analyzed, and then the data gathered will be used to answer the research questions through the qualitative analysis process.

The researcher in this study served as the participant observer. The participant observer submerged himself in the setting or process through research. The methodology used in this study was document based. Document-based research is also referred to as archival research. Document-based, or archival, research focuses on document or records such as court cases. In this type of research, the researcher is the key instrument of data collection and analysis.

Research Questions

1. What issues are present in court cases related to out-of-school suspension or expulsion in K-12 schools?

2. What outcomes transpired in cases involving out-of-school suspension or expulsion K-12 schools?

3. What are the trends in federal and state courts concerning out-of-school suspensions or expulsion in K-12 schools?

4. What guiding principles arose from court cases involving out-of-school suspension or expulsion in K-12 schools?

Methodology

Qualitative research is a process of examination that is based on definite methodological traditions of inquiry that investigate a social or human problem (Creswell, 1988). The researcher scrutinized words, built a complex all-inclusive picture, and reported detailed viewpoints of individuals in a natural setting.

Triangulation refers to the application of various approaches for data analysis (Adami, 2005). The researcher in this study employed this method by gathering data from essential and ancillary sources. The study utilized court cases, published legal opinions, legal periodicals, and dissertation abstracts to interpret and analyze data.

Research Procedure

The following procedures were utilized in the collection of data related to the research questions. A search of *West's Education Law Reporter* was used to identify relevant court cases decided between 1981 and 2012. Cases were obtained using *West's Education Law Digest*, with the key number system, which identifies and provides descriptors as follows: COLLEGE AND UNIVERSITIES; 345k169-177. Cases were identified through the citation provided by the *Law*

Digest accompanying *West's Education Law Reporter*. Only cases that involved out-of-school suspension or expulsion were examined. Cases involving other means of disciplinary measures were not used due to the focus of the study. The case brief methodology was used to analyze each case, as outlined in Statsky and Wernet (1995). Case briefs were gathered, analyzed, and converted to data to be used for qualitative analysis.

Sources for Court Cases

In this study, court cases examined were decided from the United States Supreme Court, United States Court of Appeals, United States Federal District Courts, and state appellate courts. The search for court cases was conducted in the Education Law section at the Mervyn Sterne Library on the University of Alabama at Birmingham campus and Education Law section at Bounds Law Library on the University of Alabama campus. An initial search of relevant court cases was undertaken by using the cumulative index of *West's Education Law Digest*.

Digest

The *West's Education Law Digest* (2008) covers cases published in *West's Education Law Reporter*. This *Digest* specializes in reports on education cases in the United States Supreme Court, United States Court of Appeals, United States Federal District Courts, and state appellate courts. The *Digest* lists cases alphabetically according to the title of the case, volume, page number, case history, digest topic, and key numbering system under each point of law. The key number for control of students and discipline in general is 345k169. This key number identified court cases relevant to control of students and discipline in general that were located in the *West*

Education Law Reporter. Once all relevant cases were gathered, researched, and briefed, data were compiled.

Reporter

The *West's Educational Law Reporter* is arranged topically and chronologically. The *Digest* provided the researcher with relevant cases and the location in the *Reporter*. The *Reporter* includes education cases that have been recently decided and dates back to 1981. The *Reporter* provides full court opinions, publishes decisions by particular courts, summaries, and head notes of cases.

The *West's Law Reporter* separates cases into seven different geographic regions. The research for this study was developed from the cases listed from 1981 to 2011. It is important to note that the *West's Education Law Reporter* is divided into three sections. The first section encompasses the older cases and the second and third sections encompass the more recent cases.

Data Collection

Garner (1999) stated that a brief is

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. (p.186)

In this study, the briefs served as the researcher's method of interviewing the judge.

According Statsky and Wernet (1995), case briefs must contain the following essential information:

1. Citation: “A court-issued writ that commands a person to appear at a certain time and place to do something demanded mentioned therein, or to show cause for not doing so” (Garner 1999, p. 236).
2. Facts: “Something that actually exists; an aspect of reality” (Garner 1999, p. 610).
3. Issue: “A point in dispute between two or more parties” (Garner 1999,
4. p. 835).
5. Holding: “A court’s determination of a matter of law pivotal to its decision: a principle drawn from such a decision” (Garner 1999, p. 737).
6. Reasoning: “The court’s explanation for reaching a particular holding for a particular issue on the opinion” (Statsky & Wernet, 1995, p. 128).
7. Disposition: “Act of disposing; transferring to the care or possession of another. The parting with, alienation of, or giving up of property. The final settlement of a matter and, with reference to decisions announced by a court, a judge’s ruling is commonly referred to as a disposition, regardless of level of resolution” (West Encyclopedia of American Law, 2005, p. 71).

The design of a law dissertation allowed the researcher to brief each case as if interviews were occurring in a qualitative study. The data gathered and evaluated by the researcher distinguished court decisions, key facts, and outcomes of each court case. The comprehensive review process provided information needed to answer the research questions in this study.

Data Analysis

By identifying trends, patterns, and themes that developed from the analysis of case materials, the researcher was able to answer the research questions in this qualitative study. In

this study, the researcher treated the decisions of the courts and opinions of the justices in those rulings as qualitative interviews. The researcher categorized the results of the interviews.

Huberman (1984) considered that analysis consists of three concurrent flows of activity: data reduction, data display, and conclusion drawing/verification. First, data reduction is a form of analysis that sharpens, sorts, focuses, discards, and organizes data in such a way that “final” conclusions can be drawn and verified. Second, data display is an organized assembly of information that permits conclusion drawing and action taking. Finally, conclusion drawing/verification is the process where the researcher validates the meaning of things, regularities, trends, patterns, and possible configurations. In short, the meanings emerging from the study must be tested for their credibility, sturdiness, reliability or, simply put, their validity.

The most efficient method of answering the research questions posed by the researcher was to systematically discuss and analyze possible trends and themes. Trends were found and reported, conclusions drawn and actions were taken from court rulings, and guiding ideologies were established for K-12 administrators.

Stake (1995) endorsed the content analysis research method, direct interpretation, correspondence and pattern, and naturalistic generalization. The categorical aggregation included extracting information from the case and distributing it into like categories (Stake, 1995). Second, the researcher extracted key elements from the data and those elements were categorized by the nature of the complaint of litigation (Statsky & Wernet, 1995). Thirdly, the researcher determined patterns within the data. A list of cases was developed and aligned each with corresponding trend (Stake, 1995). Finally, the researcher interpreted the data through naturalistic generalization. Favorable and unfavorable court decisions for administrators and school systems were used to satiate the naturalistic generalization component.

This study will serve as a guide for administrators in school systems. Administrators in K-12 schools must consider the issues of out-of-school suspension or expulsion and possible negative ramifications that could result when understanding of court rulings is not known. A comprehensive understanding of previous court rulings and current trends is needed to avoid superfluous litigation.

Position Statement

I am currently serving as principal of Fairview High School. This is my 21st year in education. I served as a classroom instructor for 10 years and have been in an administrative position for the past 11 years. Fairview High School is located in the northeastern section of Cullman County in Alabama. Fairview High School is a public, rural school serving Grades 9-12.

Fairview High School consisted of 515 students at the beginning of 2012. The ethnic make-up of the school reflects that of the surround community: 96% White, 2% African American, and 2% Hispanic. The percentage of students qualifying for free or reduced lunches for the school year of 2012-2013 is 55%.

CHAPTER 4

DATA PRODUCTION AND ANALYSIS

This chapter provides an examination of court cases from both the federal and state level regarding a school board's expulsion and out-of-school suspension of K-12 students. Court cases occurred in the time frame of 1970 through 2012. As will be demonstrated in the following section, the typical case involved a challenge originated by the student or guardian, after the school board had moved to expel or suspend out-of-school the student who had been disciplined. The following section includes a description of the court cases supplying data for this study, reduced to case briefs. Statsky and Wernet's (1995) case briefing method was used as a means of describing what occurred in the cases.

Case Briefs

Citation: *Hamilton v. Unionville-Chadds Ford School Dist.*, 714 A.2d 1012 (Pa. 1998).

Key Facts: A student was found with marijuana and cigarettes and had confessed to selling a stolen CD player. The school administration recommended to the board of education that the student be expelled for multiple level "F" offenses.

Issue: Is the school district and the middle school conduct code of the same matter regarding level "F" offenses and did the middle school give the appellee an appropriate amount of time to respond to the charges alleged against him?

Holding: The United States Court of Appeals reversed the lower court's decision and decided that the expulsion was legal.

Reasoning: The court determined that under the rules of statutory construction that both the middle school code and the district code were of the same matter and that the list of offenses was not all-inclusive. The court also reasoned that neither of the two codes conflicted with each other because they were designed to compliment. Because the appellee received notice of a hearing prior to his expulsion, the appellee received adequate Due Process and notice.

Disposition: The United States Court of Appeals reversed the lower court's decision and ruled that the appellees expulsion was proper.

Citation: *Juvenile Department of Washington County v. Rohlffs*, 938 P.2d 768 (Or. Ct. App. 1997).

Key Facts: A student was reported by other students to have possessed marijuana within the vicinity of a school. The vice-principal along with another teacher called the student out of class into another classroom and asked to search him. The child refused to allow the teachers to search his jacket, after which they called his father. After his father arrived, the child became upset and the two teachers called the police and tried to block the child from leaving. When the police arrived, the child was asked if the police could search his jacket and the child agreed. The police officer discovered marijuana in his jacket. The child appealed after a juvenile court found the child within jurisdiction of the court of possessing marijuana within 1,000 feet of a school.

Issue: The main issues in this case are whether the detention of the child by both the teachers constituted a stop in which reasonable suspicion was warranted and whether the consent to search the child's jacket by the police officer was voluntary?

Holding: The court determined that the teachers had specific and articulable facts that constituted reasonable suspicion and warranted a stop of the student. The court also held that

under the totality of the circumstances, the search of the student by the police officer was voluntary.

Reasoning: The court stated that the teachers did stop the student merely for questioning but for searching his person for illegal drugs. However, both the teachers had reasonable suspicion from both the information regarding the child's own history of drug problems and the information received by other students to constitute a stop. Therefore, under the totality of the circumstances, the search of the child's jacket was voluntary because the child's father had been at the school and the child was free to leave at any time.

Disposition: The Court of Appeals found that the detention of the child warranted reasonable suspicion and that under the totality of the circumstances, the consent of the child's jacket was voluntary.

Citation: *Dothan City Bd. of Educ. v. V.M.H.*, 660 So.2d 1328(Ala. Civ. App. 1995).

Key Facts: Student was found with an air gun rifle in his car that was seen by a school official. The student was suspended by the high school principal and further recommended that the student be further expelled or be placed on long-term alternative school. After a hearing, the student was placed in long-term alternative school. The student appealed to juvenile court contending that the code provision was unconstitutional. The court agreed and ordered that the student be readmitted to the school.

Issue: The main issues in this case include whether the code of student conduct was vague, if the school board denied the student Due Process, and whether the juvenile court had jurisdiction over the student's challenge?

Holding: The Court of Civil Appeals affirmed the juvenile court's decision and agreed that the student code was unconstitutionally void and that the student was denied Due Process.

The court further held that the juvenile court had jurisdiction over the student's challenge of the school board's decision.

Reasoning: The court reasoned that the student code involving the description of a weapon was vague because virtually anything could be considered a weapon under the code's description of a weapon. The court further explained that the board of education in its analysis relied too heavily upon the opinion of the principal. By relying upon the principal's description of what was or was not a weapon, the student could not be afforded appropriate Due Process because the board supplied its own interpretation. Because the school board's recommendation would have excluded the student from returning to the school, the court further concluded that the juvenile court had jurisdiction.

Disposition: The Court of Civil Appeals affirmed the juvenile court's ruling and found that the student was denied Substantive Due Process due to the fact that the student code involving the description of weapons was vague.

Citation: *Canney v. Board of Public Instruction of Alachua County*, 231 So.2d 34 (Fla. Dist. Ct. App. 1970).

Key Facts: A regulation was passed restricting students from wearing exotic hairstyles that would be disruptive to the school environment. The petitioner, after violating such regulation, was scheduled a hearing with his father to determine the outcome of his options regarding the petitioner's violation of the hair regulation. The high school principal scheduled the petitioner a 10-day suspension and a hearing with the board of education regarding the issue. The board upheld the suspension and further recommended the suspension remain until the student conformed to an appropriate hairstyle. The petitioner proceeded to challenge the board's decision by seeking a writ of certiorari.

Issue: The main issues in this case are whether the student regulation was constitutional and whether the petitioner received adequate Due Process during his hearing?

Holding: The court affirmed the lower court's decision and established that the regulation was valid and both the petitioner and his father received adequate Due Process through notification before the petitioner's suspension.

Reasoning: The court reasoned that regardless of the student's required awareness of proof of his violation that his hair was conflicting with the regulation. The court explained that it was within the power of the school principal and the board to ensure punishment of willful disobedience. Also, the court determined that no Due Process violation occurred because both the father and the petitioner had received warning of the violation.

Disposition: The court affirmed the lower court's decision and agreed that the petitioner had violated a valid regulation.

Citation: *Beckley v. Christopher W.*, 105 Cal. Rptr. 775 (Cal. Ct. App. 1973).

Facts: Appellant alleged that the opening of a locker in which marijuana was found violated his constitutional rights. The vice principal and principal used a master key to search the locker of the appellant after being made aware of the marijuana in the locker. After its discovery, the appellant denied owning the marijuana and the school suspended the appellant pending a police investigation.

Issue: Did the school administration violate the appellant's constitutional rights to an unreasonable search and seizure?

Holding: The court held that under a two-prong test for searches, the school administration did not violate the appellant's Fourth Amendment rights.

Reasoning: The court determined that the first requirement of the search must be within the school's duties. The second requirement must be that the search was unreasonable under the facts and circumstances. The court noted that the prevention of the marijuana along with the report of its location justified the search.

Disposition: The court upheld the juvenile court's order and upheld the search.

Citation: *In re G.C.*, 296 A.2d 102(N.J. Juv. & Dom. Rel. Ct. 1972).

Facts: Student was suspected of selling methamphetamine tablets at school and was eventually searched. The student was suspected of selling the pills through an anonymous phone call. The principal and a female teacher asked and received consent to search the student. The search revealed amphetamine pills inside the student's purse and the school administration suspended the student for 10 days. The student denied the complaint and alleged Fourth Amendment violations of an unlawful search.

Issue: Did the school administration violate the juvenile student's Fourth Amendment rights?

Holding: The court held that the principal being in a position of loco parentis had a duty to protect other students and in light of reasonable suspicion performed a reasonable search under the Fourth Amendment.

Reasoning: The court held that the principal held a position of loco parentis and had a duty to protect other students from possible exposure. Under the circumstances, the court determined that the student had been subjected to a reasonable search because both the student consented and the principle had a duty to protect the other students.

Disposition: The court denied the student's motion and upheld the search as being reasonable.

Citation: *Martinez v. School Dist. No. 60*, 852 P.2d 1275 (Colo. App. 1992).

Facts: While attending a high school dance, students were accused of drinking alcohol and transferred to another school for 90 days as a result of their consumption of alcohol. The students alleged that a dance monitor asking the students to blow in the monitor's face constituted an illegal search. The students also contended that their transfer and dismissal from the school dance violated their Due Process rights because the alcohol had not "affected" them.

Issue: Did the student's suffer an unlawful search and did the transfer of the students to another school violate the students' Due Process rights?

Holding: The monitor asking the students to blow in her face did not constitute an illegal search under the Fourth Amendment. The court held that under a two-prong test the monitor had reasonable suspicion to subject the students to a blow test. The court also held that the transfer of students to another district did not warrant the students a hearing because it did not restrict the students from receiving an education.

Reasoning: The court reasoned that because the monitor had a reasonable suspicion that the students had been drinking and because the blow test was reasonably related to the scope of the search, it was a constitutional search. The court further held that the transfer of the students to another school did not limit the students from receiving an education. Because the students were not deprived of any opportunities that would normally be associated with a suspension, the students were not warranted a hearing.

Disposition: The court upheld the search as being constitutional and dismissed any claim regarding the reassignment of the students to another school.

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

Facts: Students were found to be loitering in an area considered to be a no loiter zone by the school. Students were witnessed talking in the no loiter zone by a deputy hired to ensure the safety of the school. Students, as a result, were suspended for 3 days in which they received two hearings on the matter. Students sued stating that the rule was void for vagueness and the District Court denied the students motion for dismissal.

Issue: Did the school rule prohibiting loitering violate the students' constitutional rights to free speech and assembly? Also, did the school rule prohibit the students' Due Process rights for being void for vagueness?

Holding: The court ruled that the rule prohibiting loitering did not violate the students' First Amendment rights nor was it void for vagueness. The court held that the school properly administered notification of the rule to the students and the students' parents.

Reasoning: The court reasoned that the school had a duty to manage its affairs and its responsibilities affiliated with the school. As long as the school gave proper notice of an activity not permitted, then the students did not suffer a violation of their Due Process rights. Because the notice was sent to the parents, the rule prohibiting loitering was not void for vagueness. The court determined that the rule was not void because the rule prohibiting loitering defined what the students could and could not do.

Disposition: The court upheld the lower court's decision and denied the students' motion to dismiss.

Citation: *Davis v. Ann Arbor Public Schools*, 313 F. Supp. 1217(E. D. Mich. 1970).

Facts: Student was suspended for the remainder of the school year for repeated offenses ranging from truancy to arson. The student, as well as his mother, was warned multiple times that the school intended to expel him if he did not cooperate with the school rules. The student

further violated the school rules and was suspended, where upon the high school recommended to the board of education that the student be suspended for the remainder of the year. Student sought injunctive relief on the grounds that the school violated his Procedural Due Process rights.

Issue: Did the school violate the student's Due Process rights by not giving the student adequate notification and opportunity to appeal his suspension?

Holding: The court ruled that the student and his mother were both informed and given adequate notice of the student's frequent offenses against school regulation.

Reasoning: The court reasoned that the high school had a responsibility to ensure the safety and respect of other students when dealing with a student who personally ignored school regulations. The court determined that the student ignored the respect of other teachers and was therefore given adequate notice of his offenses. The student, upon being suspended, was afforded a hearing in which all Due Process was afforded to the student.

Disposition: The court ruled that the school authority had and did act within their authority and the student's constitutional rights were not violated.

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

Facts: An elementary school student was suspended after punching fellow classmates and violating other school regulations. The parents filed a complaint after the student was suspended for 10 days following the failure of the student's parents to attend a scheduled hearing regarding the student's conduct. The District Court dismissed the action and the plaintiffs sought leave to amend the complaint against the defendants.

Issue: The main issues in this case involve whether the elementary student was provided Due Process under the Fourteenth Amendment and whether the student was subjected to any unreasonable searches?

Holding: The court held that the student's Due Process rights had not been violated because the school had taken appropriate measures to ensure student safety. The court stated that the questioning of the student did not violate the student's Fourth or Fourteenth Amendment rights. The student had been afforded adequate opportunities regarding Due Process with ample opportunities to explain the child's behavior. The court also held that the student had not suffered any Fourth Amendment violations by being questioned in front of other students about alleged violations.

Reasoning: The court reasoned that the school had provided notice after each of the student's violations and therefore provided adequate notice. The student was provided with an opportunity to be heard at each hearing and was even provided the opportunity to submit written complaints after such hearings. The court also determined that the plaintiff failed to adequately state any First Amendment religious claims. Regarding the student's Fourth Amendment claims against unreasonable searches and seizures, the court stated that the student had been granted the opportunity to defend himself as in accordance with the Fourth Amendment.

Disposition: The court granted the defendant's motion to dismiss and granted the plaintiff's First Amendment complaint.

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

Facts: High school student was suspended for misconduct involving the possession of a firearm on or near school property. The student brought the claim alleging First and Fourteenth

Amendment violations of the Constitution. Upon receiving the complaint, the defendants filed a motion for judgment on the pleadings.

Issue: The main issues in this case involve whether the school district was entitled to Eleventh Amendment protections, if the student failed to state a claim of Procedural and Substantive Due process, and if the student's First Amendment rights were violated?

Holding: The court denied the defendant's Eleventh Amendment motion to dismiss as well as the defendant's motion to dismiss the plaintiff's First Amendment violations as to all defendants for failure to state a claim. The court granted defendant's motion to dismiss plaintiff's alleged violations of Substantive and Procedural Due Process as well as part of the defendant's qualified immunity claim. The court also denied the defendant's motion to dismiss the plaintiff's Equal Protection claims.

Reasoning: The court reasoned that school boards are considered like municipalities that do not have the protection of Eleventh Amendment immunity. The court went further and established that local school boards raise and pay their own salaries and are thus mostly independent of the state. Qualified immunity can only be applied to a state official in an individual capacity. Therefore, this is why the court granted and denied qualified immunity in part. Regarding Due Process, it is apparent that the plaintiff received notice of the charges alleged against him and of the hearing.

The court stated that without a taking of life, liberty, or property an individual must have notice and the opportunity of a hearing. As in this case, the plaintiff was granted both a hearing and informed of the alleged complaints against him. Deciding the issue of the plaintiff's First Amendment violations, the court concluded that it must first determine whether the speech was protected and whether that speech would have disrupted school activities. Thus, the court

determined that the school had the right to make decisions, which might limit a person's rights when school safety is concerned. Because the plaintiff was not considered to be a protected person or class, the court therefore rejected the plaintiff's claim.

Disposition: The court denied the defendant's claim of qualified immunity in part and denied in part. The court denied the defendant's motion to dismiss the plaintiff's claim of First Amendment violations and granted the defendant's motion to dismiss the plaintiff's claim of Procedural and Substantive Due Process rights. The court also denied the defendant's motion to dismiss the plaintiff's Equal Protection claim.

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

Facts: A student was suspended from school for 5 days after uttering profanity in the school lunchroom during a heated altercation. The student sought preliminary injunction from requiring her to take final exams as a result of her suspension. The District Court held that the student was afforded Due Process and the student was not denied Equal Protection. The District Court also stated that the school had not violated the student's First Amendment rights and that the student would not suffer irreparable harm as a result of the suspension.

Issue: The main issues in this case involve whether the student was afforded Due Process, Equal Protection, and appropriate First Amendment rights under the Constitution?

Holding: The court held that the student had been afforded Equal Protection, Due Process, and that the school had not violated the student's First Amendment rights.

Reasoning: The court determined that the student was not prohibited from receiving Due Process merely because the student was suspended. The school not only informed the parents of the student's suspension but also provided a hearing. During the meeting with the student's parents, the school provided a written notice of the length of the student's suspension. The court

also stated that the student had not suffered any violations of Equal Protection simply because the other student's suspension was not more severe. Regarding the First Amendment complaint, the court reasoned that the students were not simply able to pronounce vulgar or offensive language and be afforded the protections of the Constitution when such language would disrupt a healthy learning environment.

Disposition: The court dismissed the plaintiff's motion to dismiss in part and denied the plaintiff's motion for preliminary injunction.

Citation: *Dreyfus v Austin Ind. School Dist.*, 779 F2d 260 (Tex. Ct. of App. 1985).

Key Facts: Student was found with marijuana and drug paraphernalia in his possession. Student admitted it was his and was suspended for 3 days pending a hearing. School board suspended student for remainder of year based on a Category III offense. Plaintiff on behalf of her son brought an action asserting both Fourth and Fourteenth Amendment violations.

Issue: The main issue in this case is whether a violation of the student's Fourth and Fourteenth Amendment occurred?

Holding: The United States Court of Appeals upheld the lower court's decision and granted summary judgment in favor of the defendants.

Reasoning: The court determined that the school board's decision did not violate policy because it suggested in cases where the student "represents a clear and present danger of continued disruption of the educational process" and "the description of types of offenses which warrant particular types of suspension is not intended to be limiting nor is it intended to describe a particular level of punishment." The school suspended solely for "possession of marijuana and drug paraphernalia" not based on any information gathered after the initial offense.

Disposition: The United States District Court of Appeals upheld the lower court's decision and granted summary judgment in favor of the defendant.

Citation: *Scoville v. Board of Ed. of Joliet Tp. High School Dist.*, 425 F.2d 10(7th Cir. 1970).

Facts: Two students alleged that the school board violated their First and Fourteenth Amendment rights by releasing the plaintiff's from the school paper and expelling the students from school for the rest of the year. The students who were involved in the school paper had reportedly written offhand comments that offended the principle resulting in their punishment. The District Court originally dismissed the suit but later agreed to hear the petitioner's complaint again en banc.

Issue: Did the school board violate the plaintiff's First and Fourteenth Amendment rights?

Holding: The court held that the school board had violated the student's constitutional rights because the school did not establish that the material written in the papers was disruptive.

Reasoning: The court reasoned that under the circumstances, the plaintiffs had never been proven to be disruptive. The court ruled that the students had simply engaged in a school activity designed to broaden the plaintiff's educational experience. The court went further and established that just because something had been distained does not give the school the authority to affect discipline. Therefore, the court ruled that the mere publication to only 60 students had not created such an unreasonable interference with school activity to warrant infringement upon the plaintiff's constitutional rights.

Disposition: The court reversed and remanded the case entitling declaratory judgment, injunctive relief, and damages to both of the plaintiffs.

Citation: *Lopresti v. Galloway Tp. Middle School*, 885 A.2d 962(N.J. Super. Ct. App. Div. 2004).

Facts: Plaintiffs are the parents of a child who was punished after teachers told the student that she would have to attend three lunch detentions for violating the schools cafeteria's regulation prohibiting leaving your lunchroom seat. The plaintiff told his daughter not to comply with the punishments because the cafeteria regulation violated the Constitution. Plaintiff sought injunctive relief, interlocutory relief, and damages of court costs in the complaint. The defendant filed a motion to dismiss plaintiff's complaint for failure to state a claim.

Issue: Did the school regulation violate the First and Fourteenth Amendment rights of the plaintiff's daughter?

Holding: The court held that the plaintiff had failed to reasonably state any claim, which suggested that the regulation restricted any constitutional rights.

Reasoning: The court determined that schools as well as laws governing society must be enacted and enforced to prevent disruptive behavior before it occurs. Further, the court implies that the students had not been isolated or prohibited from sitting at certain tables because of what they said or read. Lastly, the court concluded that the regulation was established in a reasonable manner in order to ensure lunchroom organization and order.

Disposition: The court dismissed the plaintiff's complaint for failure to state a claim.

Citation: *Bravo v. HSU*, 404 F. Supp. 2d 1195(C. D. Cal. 2005).

Facts: Plaintiff brought a suit against the defendants after the plaintiff was searched and subsequently detained after multiple students accused the plaintiff of possessing drugs. The plaintiff was subsequently sent home and transferred to another school because of her actions. The plaintiff as well as her mother brought a suit against the defendants for violating plaintiff's

Fourth Amendment rights during the search and when the plaintiff was detained. The plaintiff also asserted a negligence and intentional infliction of emotional distress claim against defendants. The District Court ruled that the search of the plaintiff's backpack was not unreasonable nor was the plaintiff's detention unreasonable. The District Court also stated that the detention did not fall below that of ordinary standard care.

Issue: The main issue in this case is whether or not the defendants violated the plaintiff's Fourth Amendment rights?

Holding: The court held that the search of the plaintiff's backpack was not unreasonable and that the detention of the plaintiff was not unreasonable. The court also dismissed the state law claims asserting intentional torts.

Reasoning: The court reasoned that given the situation, the school was justified in searching the plaintiff's backpack and that the search was conducted within the scope of the search. The court explained that the plaintiff was searched away from all of the other students in an appropriate manner and amount of time. Having reason to believe that the plaintiff had possessed drugs, the school was also justified in its detainment of the plaintiff until her mother arrived. Therefore, under the circumstances, the student did not suffer any Fourth Amendment violations because the search and detainment was justified and limited to the scope of the issue.

Disposition: The court denied the plaintiff's claims and granted summary judgment to the defendants.

Citation: *Hobson v. Bailey*, 309 F. Supp. 1393(W.D. Tenn.).

Facts: Plaintiff was suspended for leaving school during a designated walkout. The student, while on suspension, went to a rally adjacent to the school and encouraged students not to go to school. This resulted in the plaintiff's suspension from school indefinitely, in which the

plaintiff was later informed separate of her original suspension. The plaintiff was granted an opportunity to be heard during a hearing but was not granted the chance to prepare for additional accusations the board developed in response to activities involving protests that the plaintiff engaged in after her original suspension. The plaintiff filed the complaint alleging violations of her Due Process rights and violations of Equal Protection. The District Court granted a preliminary injunction in favor of the plaintiff to return to the high school in which she was suspended.

Issue: Did the defendants violate the plaintiff's Due Process rights and Equal Protection rights by not giving the plaintiff notice of additional charges alleged against her prior to her hearing regarding her suspension?

Holding: The court held that the defendants violated the plaintiff's Due Process rights by not providing notice of the accusations alleged against her.

Reasoning: The court explained that in order to receive appropriate notification regarding Procedural Due Process, a person must be given a chance to dispute the accusations. The court also stated that a person should be allowed to know the charges alleged against them in order to better prepare for the hearing. The court explained that although the charges alleged against the plaintiff may have been warranted in nature, notice must still be given in accordance with the plaintiff's constitutional rights.

Disposition: The court granted the injunction and affirmed the District Court's findings.

Citation: *Porter v. Ascension Parish School Bd.*, 301 F. Supp. 2d 576(M.D. La. 1995).

Facts: A student brought an action against school officials after the student had drawn a violent picture of burning down his school. The student had issues involving threats with other students in the past. The school searched the student after the situation was brought to their

attention and found a razor, fake ID, and other pictures with disturbing drawings. The student's mother was called to the school and attended a conference where the student admitted the conduct. In a further action taken by the mother, any hearing that would have been afforded to the plaintiff was waived in order to attend alternative school immediately.

Issue: The main issues in this case involve whether the drawing fell under protection of the First Amendment and if the search of the student constituted a Fourth Amendment violation?

Holding: The court held that the school administration did not violate the student's Fourth Amendment rights. The court also held that the student was afforded Due Process and that pictures describing content of burning down a high school were not protected under the First Amendment.

Reasoning: The court explained that under the various tests in *Tinker* (1965) and other circuits, that the student's drawing not only caused disruption, but also constituted a true-threat which did not surpass any legitimate interests of protecting other students. The court went on to explain that since the student had waived any right to a hearing as well as admitting to the allegations, no Due Process violation occurred. Although the plaintiff did suffer a search, the court reasoned that under *stare decisis*, the reasonableness of the search was valid and did not violate any Fourth Amendment protections. The court also stated that the defendants had acted within their official capacity and any violations regarding the search of the student would be prohibited.

Disposition: The court ruled that the defendant's motion for summary judgment was granted and that the plaintiff's request for attorney fees was denied.

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

Facts: Plaintiffs are the parents of a child who was transferred to alternative school after teachers found the student's diary with story's alleging a fictional story of Nazi children taking over the school that the student attended. The plaintiffs alleged that the student suffered First, Fourth, and Fourteenth Amendment violations. The District Court held that the school violated the student's First Amendment rights, and the preliminary injunction would be issued. The District Court also said that the search did not violate the student's Fourth Amendment rights.

Issue: The main issues in this case are whether the student suffered First and Fourth Amendment violations.

Holding: The court ruled that the District Court's holding was correct and denied to dismiss the plaintiff's First Amendment claim and granted the injunction.

Reasoning: The court reasoned that the student's writings could have disrupted the operation of discipline in the school. The court also stated that the student's journal was not considered vulgar, dirty, or lewd speech. The court also explained that the defendant had not ever been in trouble before, nor had any of the events described happened in the past. Therefore, along with insufficient evidence that would have proved that the defendant planned on disrupting the school, the motion to dismiss the plaintiffs' First Amendment claim was denied. The court stated that the teacher who conducted the search had a reason to believe that the search of the student's bag would turn up a violation of school rules. Also, the student did originally consent to the search where the teacher discovered his diary. The student, according to the court, met and satisfied all criteria to seek a preliminary injunction in order to prevent any more harm.

Disposition: The court prohibited the defendants from placing anything in the student's record, assigning the student to another academy, making false statements, and discussing the contents of the student's diary to anyone else. The court also ordered a nominal bond of \$100.00.

Citation: *Engle v. Independent School Dist. No. 91*, 846 F. Supp. 760(D. Minn. 1994).

Facts: Parent brought suit against the school district on behalf of his student son after his son was suspended from school, for his own protection, for 10 days at the end of the school year. The student who was Asian American had been taunted and picked on by other students at his school in the form of racist names. After a student was killed in a car accident, students misinterpreted the laughter of the plaintiff's son and started a rumor that the student was happy over the death. The student received threats and tried to work out any difficulties but was later suspended for his safety. The plaintiff brought the claim alleging that the school violated his Fourteenth Amendment rights, Equal Protection rights, and discrimination in accord with the Minnesota Human Rights Act. The District Court ruled that the plaintiff failed to establish Equal Protection and Due Process claim. The District Court also held that the plaintiff established a Minnesota Human Rights claim but denied punitive damages.

Issue: Did the student suffer discrimination under the Fourteenth Amendment and the Minnesota Human Rights Act?

Holding: The court held that the student had not been deprived of any procedural or Substantive Due Process rights. The court also held that the plaintiff had not established a claim under the Minnesota Human Rights Act and denied punitive damages.

Reasoning: The court reasoned that although the student was entitled to a public school education, the plaintiff failed to state any claim regarding the violation of his son's Due Process rights. No procedural violations occurred because the student had not been deprived of any education by being suspended for his protection. Because this option was in the best interest of the student and because all other options were considered, any substantive issues lacked merit. The court explained that absent malicious action taken by operational management, any claim

alleging discrimination under the Minnesota Human Rights Act lacked merit. The court lastly explained that because the plaintiff's son was not suspended for his race but for his protection, the plaintiff's Equal Protection claim lacked merit. The court denied punitive damages because no evidence was presented to support any action taken on behalf of the school that would be considered malicious.

Disposition: The court denied the plaintiff's claims and granted the plaintiff's motion for summary judgment.

Citation: *In re Pope*, 564 S.E. 2d 610(N.C. Ct. App. 2002).

Facts: A juvenile at Lead Mine Elementary School was asked by the principal to accompany him to the office during school hours. The juvenile refused and was picked up and carried in order to prevent the juvenile from leaving. During the struggle, the principal was hit and scratched by the juvenile multiple times. The state filed a petition alleging that the juvenile committed assault and was adjudicated by the trial court. The juvenile appealed stating that there was insufficient evidence, trial court error, and a matter of self-defense.

Issue: Did the injuries suffered by the principal at the hands of the juvenile result as a matter of self-defense?

Holding: The trial court ruled that the juvenile failed to support any claim of self-defense.

Reasoning: The court explained that there was no reason for the juvenile to attack the principal unless the student was in danger. The court went further and explained that the juvenile was merely having a reasonable conversation with the principal and had no reason to lash out in fear. The court also stated that the juvenile could not prove that he was not the provoking individual that caused the incident to occur.

Disposition: The court denied all defenses alleged by the juvenile and affirmed the ruling of the lower court.

Citation: *James v. Unified School Dist. No. 512*, 899 F.Supp.530 (D. Kan. 1995).

Facts: School administration received anonymous tips alleging that the plaintiff had a gun on school property. The next day, the plaintiff was questioned and a search was conducted of the plaintiff's automobile in front of his father. A gun was found inside the vehicle of the plaintiff's automobile where upon the plaintiff was informed of his Miranda rights and taken to jail. A hearing was conducted by the board of education which resulted in the expulsion of the plaintiff from school. The board of education denied an appeal and the plaintiff filed a complaint in federal court seeking an injunction and damages that would allow the plaintiff to take his exams or be given credit for grades already earned.

Issue: Did the board of education violate the Procedural and Substantive Due Process rights of the plaintiff, and should a temporary restraining order be granted?

Holding: The court held that the plaintiff suffered no violations that would result in a loss of Procedural or Substantive Due Process rights. The court also denied a temporary restraining order, concluding that gun prevention was in the best interest of school safety.

Reasoning: The court explained that the plaintiff failed to establish that the governmental interest was not related to the governmental action. The court further explained that the necessity of that governmental interest regarding weapons on school property was reasonable under the circumstances. The plaintiff failed to establish that his rights had been grossly violated compared to the interests of the school and the school's obligation to protect other students.

Disposition: The court denied a temporary restraining order and denied the plaintiff's appeal.

Citation: *Daw v. School Dist. 91. Bd. of Trustees*, 41 P.3d 234(Idaho 2002).

Facts: The plaintiff brought a weapon onto school property and was recommended to the school board for disciplining for violations of school policy. The plaintiff and his father petitioned for review in District Court to review the disciplinary action of the school board. The District Court dismissed the petition and the plaintiff along with his father appealed the dismissal.

Issue: Did the school board deny the plaintiff an opportunity to judicially review the school board's decisions regarding the bringing of a weapon onto school property?

Holding: The court held that the court did not have the jurisdiction to hear the plaintiff's petition for review and therefore awarded attorney's fees to the school district.

Reasoning: The court reasoned that the plaintiffs did not have the authority under statute to hear the same issue that had already been decided during District Court. The statute provided for review of constitutional issues not decided and not issues of the same exact nature. The court interpreted the statute as providing attorney fees for any party that suffered as a result of any claim lacking a reasonable basis in fact or law.

Disposition: The court awarded attorney fees to the school district as a result of Idaho Code 1-705.

Citation: *Hinds County School Dist. Bd. of Trustees v. R.B.*, 10 S.o3d 387(Miss. 2009).

Facts: A juvenile was reported by other students for selling drugs on school property and was subsequently sent to the office to be questioned. During the questioning of the incident, the juvenile was subsequently searched and discovered to be in possession of a knife. The school board reviewed the incident and recommended that the juvenile be transferred to alternative school for the remainder of the year. The parents of the juvenile appealed the school board's

decision and the District Court reversed and remanded the order of expulsion to be expunged. The school board appealed and challenged the expulsion of the juvenile. The court of appeals affirmed the District Courts decision and the court granted certiorari.

Issue: The main issues in this case include whether the school board's conclusion that the juvenile possessed a knife was supported by substantial evidence and whether the item was actually classified as a knife. Was the juvenile denied Due Process during the disciplinary hearing and did the school board have the authority under statute to delegate power to the superintendent regarding the classification of the item seized?

Holding: The court held that substantial evidence existed to support the confiscation of the item seized and that the superintendent had the authority to classify the object as a weapon. The court also held that the court of appeals improperly decided the issues of statutory interpretation and decided that the student was not deprived of any Due Process rights.

Reasoning: The court explained that the board of education received pictures, statements, and actual opinions of school administration describing the item seized. The court also reasoned that the superintendent had the authority to classify the item as a weapon because the Court of Appeals would have significantly limited school administrations from making discretionary decisions. The court stated that the juvenile had not been deprived of any Due Process rights because the juvenile had been afforded a hearing and notification regarding the expulsion. Furthermore, the juvenile did not have the constitutional right to call witnesses to a school board hearing when testimony and transcripts were provided. The court admitted that the school board did not have the authority to compel students to testify and ultimately the juvenile's claims lacked any true merit.

Disposition: The Supreme Court of Mississippi reversed the lower court's decisions and reinstated the suspension of the juvenile.

Citation: *C.N.H. v. State*, 927 So.2d 1(Fla. Dist. Ct. App. 2006).

Facts: Juvenile had been sent to a last chance alternative school that supplied metal detectors to deter weapons and drugs. The juvenile was discovered early in the day to be found in possession of a knife located in her purse. The juvenile pleaded no contest in District Court and was found to have been in possession of the weapon on school property.

Issue: Did the search of the student violate her Fourth Amendment rights to be free from illegal searches?

Holding: The court held that administrative searches of its students were not unconstitutionally improper.

Reasoning: The court reasoned that the school had a neutral plan for executing the search that was compelled by a government interest or need. The court went further and explained that the students were attending a last chance school and did not have the normal expectations of privacy associated with the searches. The students were aware that such searches existed in accord with normal security procedure and were subjected daily to such searches without any discrimination.

Disposition: The court affirmed the lower court's decision and held that the search was proper.

Citation: *Trahan v. Baudoin*, 252 So.2d 740(La. Ct. App. 1971).

Facts: The plaintiff brought an action after his daughter was suspended after the school administration accused the plaintiff's daughter of joining in an altercation with another student.

The District Court issued a temporary restraining order and overruled the exception and the defendants obtained a writ.

Issue: Did the plaintiff have the constitutional right to challenge the final decision of the superintendent?

Holding: The court held that the plaintiff had the constitutional right to challenge the school decision but only after the plaintiff had exhausted all other remedies.

Reasoning: The court reasoned that the statute both parties relied on was intended to give the school administration power when dealing with disciplinary issues but not at the expense of any constitutional rights. The court concluded by saying that people did have the constitutional right to challenge when school administration acted maliciously but only after exhausting all school remedies.

Disposition: The court reversed the District Court's decision and reversed the temporary restraining order. The court ordered the plaintiff's complaint dismissed and all costs to be paid at the plaintiff's expense.

Citation: *Bender v. Exter Tp. School Dist.*, No. 03-5064, 2003 WL 23173723(Pa. Com. Pl. 2003).

Facts: The plaintiff's daughter was suspended originally for threatening another student and was eventually told not to speak with the other student or she would suffer an additional suspension. The next day the student was seen saying hello to the girl and was expelled by the principal to an alternative school for the remainder of the year. During the hearing between the plaintiff and the principal, the plaintiff did not receive an opportunity to speak and subsequently was asked to leave. The plaintiff filed a preliminary injunction on behalf of her daughter and the

District Court agreed holding that it was up to the school district to determine the student's placement setting.

Issue: Did the principal have the authority to place the student in alternative school for the remainder of the year for subsequently saying hello to another student?

Holding: The court held that the school district violated the original terms of its own contract. The court also held that the school district had the authority in deciding where a student should be transferred. Lastly, the court held that elementary school students were not subject to being sent to alternative school and that the plaintiff did not receive a fair hearing.

Reasoning: The court stated that pursuant to Rule 19-1901-C elementary students could not be sent to alternative school and therefore the school district lacked the authority to do so. Moreover, the court stated that the school board did not appropriately provide the student with an appropriate hearing. Lastly, the school district's actions were said to be arbitrary and capricious for merely sending a student to alternative school for saying hello.

Disposition: The court denied the school district's appeal and granted the injunction in favor of the plaintiff.

Citation: *Spencer v. Omaha Public School Dist.*, 566 N.W.2d 757(Neb. 1997).

Facts: The plaintiff student was traveling home in a school van and reportedly pressed a metal fork to another student's neck causing a red mark. The student was recommended before the board and was expelled for two semesters. The student appealed the board's decision before the District Court and the court reduced the student's expulsion to one semester. The school district appealed the decision and the student cross-appealed.

Issue: Did the school district exceed its legislative authority under the student conduct code?

Holding: The court held that the adoption of 1(b) of the student code exceeded the school board's authority.

Reasoning: The court determined that the plaintiff could not be charged with assault if the plaintiff did not intend to harm the child intentionally. The court reasoned that the school district exceeded its authority in this manner because assault was an intentional offense and therefore could not be made applicable to nonintentional behavior.

Disposition: The court reversed the judgment of the District Court and vacated the expulsion.

Citation: *Wallace v The Batavia School District* (Ill. Ct. of App. 1995).

Key Facts: The student was in a verbal confrontation with another student and refused to obey repeated requests from a school official to sit-down and be quiet. The student then refused to leave the classroom and was "physically" removed by the teacher. The student was suspended for 3 days. The plaintiff, on behalf of her daughter, brought action asserting both Fourth and Fourteenth Amendment violations. The District Court upheld the school board's decision and the plaintiff appealed that decision.

Issues: The main issue in this case is whether the seizure of the plaintiff was a violation of the Fourth Amendment?

Holdings: The United States Court of Appeals upheld the decision of the lower court and granted the defendant's motion for summary judgment.

Reasoning: The reasonableness of a Fourth Amendment seizure of a public school student by a teacher must be evaluated in the context of the school environment, where restricting the liberty of students is essential to the educational process. Therefore, the courts

held that, in the context of a public school, a teacher or administrator who seizes a student does not violate the Fourth Amendment when seeking to maintain order and discipline.

Disposition: The United States Court of Appeals upheld the lower court's decision and granted summary judgment to the defendants.

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

Facts: The plaintiff confessed to starting a fire that had occurred in a locker room after a police officer repeatedly pulled the plaintiff from class and questioned him for a total of 5 days. After being expelled from school, the plaintiff filed a complaint against the police officer for violations of his Fourth, Fifth, and Sixth Amendment rights.

Issue: Did the defendant violate the plaintiff's Fourth, Fifth, and Sixth Amendment rights and was the defendant exempt from the claims due to qualified immunity?

Holding: The court held that the plaintiff had proven that the defendant violated his Fourth Amendment rights and ruled that qualified immunity would not apply if the defendant's conduct had been unreasonable.

Reasoning: The court concluded that the defendant needed probable cause in order to seize the plaintiff and therefore violated his Fourth Amendment rights. The court further explained that the defendant's behavior could be described as unreasonable and would need further clarification.

Disposition: The court reversed the complaint on the Fourth Amendment claims and dismissed all other claims.

Citation: *Busch v. Omaha Public School Dist.*, 623 N.W.2d 672(Neb. 2001).

Facts: The plaintiff and her mother filed a petition after the plaintiff was expelled for the remainder of a school year after the plaintiff accidentally slapped the assistant principal during a fight. The plaintiff received a hearing before the board of education and the board upheld the plaintiff's expulsion. After filing a petition for error, the District Court affirmed the expulsion and the plaintiff appealed.

Issue: Did the school district over exceed its authority by adopting a rule that ultimately expelled the plaintiff for injuring the assistant principal?

Holding: The court held that the adoption of the new school rule did not over exceed its authority and did not preclude any other subsections according to statute 79-267(1). The court also held that the school had adopted a clear and definite rule that was easily understandable.

Reasoning: The court reasoned that the phrase used in 79-267(1) defining substantial interference with school purposes applied to conduct which might disrupt and deter school administration from providing a safe and effective environment. The court stated that the rule was appropriate because the application of the rule helped to benefit and promote a safe school environment in accordance with statute 79-267(1).

Disposition: The court affirmed the judgment of the lower court and held that rule 1(b) was sufficiently clear and important in promoting a safe school environment.

Citation: *Brian v. Stroudsburg Area School Dist.*, 141 F.Supp.2d 502(M.D. Pa. 2001).

Facts: The plaintiff's son was expelled from school after leaving a piece of paper on a desk alleging that a bomb was going to blow up the school. A school administrator found the note and eventually questioned the student, along with a police officer. The student eventually confessed, in the presence of the police officer, to writing the note and was subsequently suspended and recommended to the board of education in order to challenge his punishment.

Neither the plaintiff nor his son attended the hearing and, subsequently, the plaintiff's son was expelled for making terrorist threats. The plaintiff appealed the expulsion alleging violations of constitutional rights, conspiracy to violate civil rights, and violations of state law.

Issue: The main issues included whether the school district violated the student's Due Process rights and whether the school violated the student's Fifth Amendment Miranda rights?

Holding: The court held that the student's Substantive and Procedural Due process rights had not been violated. The court also held that the student's expulsion had been rational and had not violated the student's civil rights. Lastly, the court concluded that the following claims alleged by the plaintiff lacked support and were dismissed.

Reasoning: The court reasoned that the student had been informed of the hearing involving his expulsion and had a reasonable amount of time to prepare under the circumstances. Moreover, the court stated that the government had a substantial interest narrowly tailored to preventing school violence that did not constitutionally violate the rights of a wide group of people. The court also explained that the student did not have the right to wait for his parents or attorney before being questioned, due to the fact that the school must have the power and authority to discipline students.

Disposition: The court granted summary judgment in favor of the defendant's motion and denied the plaintiff's claim of state law claims.

Citation: *Fuller v. Decatur Public School Bd. of Educ. School Dist. 61*, 78 F.Supp.2d 812(C.D. Ill. 2000).

Facts: High school students were expelled after fighting in the stands during a school football game. During the fight, multiple spectators were almost injured and had to flee the stands in order to avoid being attacked. The fight was recorded on video by a spectator and

helped to reveal the identity of the students; and the school suspended the students for 10 days. The high school recommended that the students be expelled for 2 years in light of the evidence from the videotape and a special hearing convened by a specialist in education to investigate the incident. The students were heard before a hearing and expelled, not including one student who voluntarily withdrew before any action could be taken. The school district later decided to change the expulsion of the students until the remainder of the year.

Issue: Did the school district violate the plaintiff's Substantive and Procedural Due Process rights? Did the school district violate the plaintiff's Equal Protection rights when it suspended the students for fighting? Are the plaintiffs entitled to a permanent injunction because the harm incurred by the plaintiffs outweighed the governmental interests of the public interest? Was the classification of the plaintiffs under the disciplinary rule regarding gangs void for vagueness?

Holding: The court held that the plaintiff who voluntarily withdrew before the expulsion hearing had no standing to sue. The court also held that the expulsion of the students was proper and did not violate Due Process. The court held that the Equal Protection rights of the students had not been violated. Moreover, the court concluded that the zero tolerance policy had not been relied upon in dismissing the plaintiffs. Lastly, the court held that the disciplinary rules regarding gangs were not void for vagueness.

Reasoning: The court reasoned that the plaintiff who voluntarily withdrew from school did not have standing in the lawsuit. The plaintiffs who did not withdraw from the school received and had appropriate notice of the hearings regarding their expulsion. The court also explained that the methods used were normal and had not been out of the ordinary. Moreover, the court stated that the school district did not consider race regardless of statistical numbers

regarding the higher expulsion rates of African American students compared to Caucasians. The court also determined that the school had not relied upon the zero tolerance policy when suspending the plaintiffs and therefore had no bearing upon the plaintiff's expulsion. Lastly, the court concluded that the disciplinary rule regarding gangs served an important purpose of school safety and was not void.

Disposition: The court denied the plaintiff's claims and made both parties responsible for their own court costs.

Citation: *Taylor v Enumclaw School District No. 216* (Wash. Ct. App. 2006).

Key Facts: During a school-sponsored event, a student was suspected of drinking alcohol. As a result of this action, the student was academically suspended for 10 days for violating school policy. The plaintiff, on behalf of his son, brought an action asserting both Fourth and Fourteenth Amendment violations. The District Court granted summary judgment on behalf of the defendants because the district provided the plaintiff with more process than was required for appealing his academic suspension and the process was deemed adequate in athletic suspension because sports is a protected interest. The plaintiff now appeals the District Court's denial of his motion for summary judgment.

Issue: The main issue in this case is whether the student's Due Process rights were violated.

Holding: The District Court of Appeals upheld the lower court's decision and dismissed the plaintiff's complaint.

Reasoning: The United States Court of Appeals held that the plaintiff's rights were not violated when the student was provided adequate hearing opportunities.

Disposition: The United States Court of Appeals upheld the lower court's decision and dismissed the plaintiff's claim.

Citation: *J.S. v. Bethlehem Area School Dist.*, 757 A.2d 412(Pa. Commw. Ct. 2000).

Facts: A student and his parents sought review of a school district's decision to expel the student after the school discovered a violent website the student created. The website showed pictures of violence and made threats that caused serious disruption to the school and ultimately disrupted the integrity of the school. The student tried to reschedule the hearing regarding the expulsion until Thanksgiving but was denied. As a result, both the student and his parents were absent and the school district expelled the student indefinitely. The student and his parents appealed the decision of the court alleging that the hearing violated their constitutional rights.

Issue: The main issues include whether the school district violated the plaintiff's First, Fifth, Sixth, and Fourteenth Amendment rights by expelling the plaintiff and by not allowing the plaintiff to have full disclosure at the disciplinary hearing.

Holding: The court held that the expulsion did not violate the plaintiff's First Amendment rights and the plaintiff was not entitled to a 3-month continuance of the hearing until Thanksgiving. The court also held that the expulsion did not violate Equal Protection and the student did not have any expectation of privacy in the website. Lastly, the court held that the evidence used to expel the plaintiff was supported and therefore appropriate.

Reasoning: The court reasoned that the school district had a responsibility to ensure the safety and organization of its school systems from dangerous behavior. When considering the content of the website, the court ruled that the school system had a governmental interest in preventing such speech. Moreover, the court explained that such speech was not protected under the First Amendment and would incite disruption at the school. Regarding Equal Protection, the

court stated that the school district had an important governmental interest in preventing such behavior that could possibly be threatening in nature.

The court explained that the plaintiff had no constitutional right to receive an extension regarding the hearing. The court also stated that the hearing was appropriate under the circumstances and granted the plaintiff an opportunity to be heard. Furthermore, the court stated that the school district did not have to accommodate the student with the opportunity to call a witness. Lastly, the court concluded that the plaintiff did not have any expectation of privacy in the website because it was freely accessible on the Internet. The court reasoned that since the website had been freely accessible that the evidence seized was credible and therefore appropriate.

Disposition: The court affirmed the Court of Common Pleas and dismissed the plaintiff's claims.

Citation: *State v. D.J.*, No. 56140-5-I. 2006 WL 1217215(Wash. Ct. App. 2006).

Facts: The juvenile was adjudicated guilty in a juvenile court for being drunk on school property. The juvenile was determined to be drunk after being escorted to the principal's office for fighting. The juvenile claimed that his Miranda rights had been violated when the school resource officer talked to the student about what happened on the bus while waiting in the lobby of the school.

Issue: Did the principal and school resource officer violate the juvenile's constitutional rights by failing to read the juvenile his Miranda rights?

Holding: The court ruled that the school principal and school resource officer did not violate the plaintiff's Miranda rights.

Reasoning: The court ruled that the juvenile had not been detained in a manner that would be consistent with a formal arrest. The court explained that the juvenile had been detained for the sole purposes of questioning by the school administration about the fight that occurred. The court stated that such a detainment would not be considered a custodial interrogation for Miranda purposes.

Disposition: The court affirmed the juvenile's adjudication of guilt and held that the juvenile had not been placed in a position that required a reading of his Miranda rights.

Citation: *Hassan v. Lubbock Independent School Dist.*, 55 F.3d 1075 (5th Cir. 1995).

Key Facts: During a school-sponsored trip to the Lubbock County Youth Center, a student was placed and confined within a holding room because of his disruptive behavior. The plaintiff, on behalf of his son, brought an action asserting both Fourth and Fourteenth Amendment violations. The District Court denied summary judgment on behalf of the defendant's claim of qualified immunity. The defendant appealed the District Court's denial of their motion for summary judgment.

Issue: The main issue in this case was whether the seizure of the plaintiff was a violation of his Fourth and Fourteenth Amendment rights?

Holding: The United States Court of Appeals reversed the lower court's decision of summary judgment and ruled in favor of the defendants.

Reasoning: The court determined that the plaintiff was not unreasonably held under the circumstances and that the defendants did not abuse their discretion in retaining the plaintiff in a safe and supervised manner. Therefore, the defendants were entitled to qualified immunity from liability because reasonable public officials could differ on the lawfulness of their actions.

Disposition: The United States Court of Appeals ruled that the lower court erred in denying qualified immunity to Thomas, Williams, and Atkins. The court reversed the denial of summary judgment and ruled in the defendant's favor.

Citation: *Lopez v. Williams*, 372 F.Supp 1279 (Ohio Dist. Ct. App. 1974).

Key Facts: Lopez, with 13 other students, was suspended for disorderly conduct related to a disturbance in the school. Racial tension between students had been relatively high and during a free study period in the lunchroom, several Black students came into the lunchroom and began turning tables over and breaking items. The plaintiff, on behalf of her son and nine other students, brought an action asserting a violation of their Fourteenth Amendment rights. The District Court granted summary judgment on behalf of the defendant's claim of minimal due process.

Issue: The main issue in this case was whether the suspension of the plaintiffs was a violation of their Fourteenth Amendment rights?

Holding: The United States District Court reversed the school district's decision.

Reasoning: The court determined that the defendants had the authority to suspend a student. The defendants asserted in their brief that "a school board and the local school officials possess historical inherent power" to discipline students. The court determined that the plaintiffs were not accorded due process of law, in that they were suspended without a hearing prior to suspension or within a reasonable time thereafter.

Disposition: The United States District Court ruled that the school board had erred in denying the plaintiffs' due process of law.

Citation: *D.T. v. Harter*, 844 So.2d 717(Fla. Dist. Ct. App. 2003).

Facts: The plaintiff was a high school student who was found to be in possession of marijuana when police discovered the drug in the plaintiff's car. The plaintiff did not fail a drug test and alleged that the substance did not belong to him. The school board refused the hearing officer who investigated the incident and stated that the plaintiff did not have to be aware of the substance to be in possession. The school board recommended that the plaintiff be relocated to an alternative school and the plaintiff appealed the decision.

Issue: Did the school board's interpretation of the term "possession" conflict with the County Code of Conduct and therefore constitute an unreasonable interpretation?

Holding: The court held that the interpretation did conflict with the County Code of Conduct and was therefore unreasonable.

Reasoning: The court reasoned that the school board's interpretation did conflict with the County Code of Conduct and most likely possible criminal prosecution. The court reasoned that the interpretation was unreasonable because the term possession did not apply to someone who had no knowledge of having the prohibited item.

Disposition: The court reversed and remanded the school board's decision and reasoned that the board's interpretation was unreasonable.

Citation: *Flynn-Scarcella v. Pocono Mountain School Dist.*, 745 A.2d 117(Pa. Commw. Ct. 2000).

Facts: A student was found to be in possession of a bottle of champagne in the parking lot of an off-site location where the student's prom was being held. The school board suspended the student for 10 days and issued an order to not allow the student to participate in graduation. The student appealed and the court granted an injunction forcing the school administration to allow the student to participate in the graduation ceremony.

Issue: Were the actions of the school board arbitrary or capricious and therefore unreasonable to not allow the student to participate in the graduation ceremony?

Holding: The court held that the school district's decision was not arbitrary or capricious and therefore not unreasonable.

Reasoning: The court reasoned that the school district's decisions regarding school disciplinary problems were within their authority and did not belong before the court unless such action was arbitrary or capricious.

Disposition: The court reversed the lower court's decision and held that the punishment was not arbitrary or capricious.

Citation: *Lovell v Poway Unified School District* (Calf. Ct. of App. 1996).

Key Facts: A student threatened a school counselor when she became angry. The student admitted to being angry and saying something, but disputed the employee's statement of being threatened. The student was suspended for 3 days. The plaintiff, on behalf of his daughter, brought an action asserting Fourteenth Amendment violations. The District Court determined that the school district had provided adequate due process and affirmed the school board's decision.

Issues: Did the school district violate the plaintiff's Due Process rights as determined in the Fourteenth Amendment?

Holdings: The United States District Court upheld the school board's decision.

Reasoning: Although the case was dealing with subsequent inquires, the court determined that the school board's due process procedures met and exceeded all reasonable expectations placed on it.

Disposition: The United States District Court ruled that the school district had met all required areas of a due process. The court affirmed the school board's decision.

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

Key Facts: A student was suspended for 3 days for drawing a Confederate Flag. The student was in violation of the district's policy because of a series of recent racial confrontations and racial tension. The plaintiff, on behalf of his son, brought action asserting a violation of his son's Fourteenth Amendment rights. The District Court denied the plaintiff's claim of a violation of his son's Fourteenth Amendment rights. The plaintiff appealed the court's decision.

Issues: The main issue in the case was whether the student's Due Process rights were violated.

Holdings: The United States Court of Appeals upheld the lower court's decision.

Reasoning: The court determined due to prior racial conflicts on the school's campus, it was reasonable to suspend someone drawing something that could be deemed offensive. Previously, an incident occurred over a similar drawing

Disposition: The United States Court of Appeals upheld the lower court's decision and dismissed the plaintiff's complaint.

Citation: *In re F.S.E. v. State*, 993 P.2d 771 (Okla. Crim. App. 1999).

Facts: A juvenile was arrested after school administration and police found a plastic bag containing 36 marijuana cigarettes in the trunk of his car. The juvenile was adjudicated delinquent in District Court and the juvenile appealed.

Issue: Did the school administration improperly search the car of the juvenile and therefore constitute an unreasonable search?

Holding: The court held that the school administration had reasonable suspicion to conduct a search and therefore the search was reasonable.

Reasoning: The court ruled that the search was based upon the information that was given by the juvenile and therefore justified at its inception. The court also stated that the scope of the search was reasonable because the school administration had knowledge that possible illegal conduct was involved.

Disposition: The court ruled that the adjudication of the juvenile as delinquent was affirmed.

Citation: *State v. Tinkham*, 719 A.2d 580(N.H. 1998).

Facts: A student was discovered to be in possession of marijuana and implicated the defendant on the grounds that he had been the supplier. The defendant was searched the following day and confessed to the transaction as well as being in possession of possible drug paraphernalia. The juvenile signed a statement at the school and was later convicted by a jury. The defendant appealed, seeking to suppress the evidence as fruits of a poisonous tree and that the statements made were invalid as a violation of the defendant's Miranda rights.

Issue: Was the search of the defendant unreasonable and did the questioning of the defendant by the principal warrant Miranda safeguards?

Holding: The court held that the search was reasonable and that the student was not entitled to Miranda safeguards.

Reasoning: The court reasoned that the search of the defendant was reasonable because another student had implicated the defendant as the person who had sold the drugs to that student. The search was reasonable and related in scope and therefore did not constitute an unreasonable search. The court also stated that the questioning of the student was connected to

an important school concern of protecting the other students from possible harm. Also, the court explained that the questioning of the defendant did not over exceed the principal's authority since she was not acting as an agent of the state. Lastly, the court notes that the defendant had not been placed in a position that would constitute Miranda safeguards.

Disposition: The court affirmed the lower court's decision and held that the search and questioning of the defendant were reasonable.

Citation: *Howard v. Colonial School Dist.*, 621 A.2d 362(Del Super. Ct. 1992).

Facts: A student was arrested at school for being involved and selling cocaine off school property. The school board recommended expulsion of the student and eventually expelled the student for selling drugs to an undercover police officer. The student appealed the expulsion claiming that the school district violated procedural timeframes regarding code of conduct and that the school board acted in a capricious and racially motivated manner.

Issue: Did the school board violate procedural timeframes regarding the student's expulsion and did the school board act in a capricious and racially motivated manner?

Holding: The court held that the non-adherence to procedural timeframes was not severe enough to warrant reversal of expulsion. The court also held that the school board did not act in a capricious or racially motivated manner.

Reasoning: The court reasoned that non-adherence to procedural timeframes was not so severe as to warrant the reversal of expulsion. The court also explained that the record did not establish that the student was expelled for racially motivated reasons because the expulsions involved drugs. Lastly, the court held that the school board did not act capriciously because it had a responsibility to protect students from harmful behavior.

Disposition: The court affirmed the school board's decision and upheld the expulsion.

Citation: *Salazar v. E.T.*, 761 F.Supp. 45(S.D. Tex.1991).

Facts: A student was expelled after school administration and security officers discovered marijuana in the student's locker. The student appealed the school's decision and was granted multiple hearings regarding the expulsion. The school district ultimately upheld the student's expulsion and the student appealed.

Issue: Did the court violate the student's Procedural Due Process rights and did the school district not comply with the statute entitling students to privileges of home campus learning? Did the presence of an off duty police officer convert administration problems into a possible criminal prosecution?

Holding: The court held that the school district had complied with all standards of Procedural Due Process. The court also held that the school district did not have to offer home campus options if the student was still a possible threat to other students at school. Lastly, the court held that the presence of an off duty police officer did not transform the situation into a criminal prosecution.

Reasoning: The court explained that the school district had given the student multiple appeals and had even allowed the student the opportunity to call witnesses on his behalf. The court stated that the student did not have a right to home campus learning because the student could still be reported as being a danger to the health and welfare of other students. Lastly, the court reasoned that the student's argument lacked any merit that the off-duty police officer transformed the situation into a criminal prosecution. The court stated that the student had never been charged or prosecuted in a criminal court and therefore the student's claim lacked any support.

Disposition: The court affirmed the school board's decision and affirmed the expulsion.

Citation: *Rohrbaugh v. Elida Local Bd. of Edn.*, 579 N.E.2d 782(Ohio Ct. App. 1990).

Facts: The plaintiffs challenged their suspension after being found under the influence of alcohol at a school function. The plaintiffs admitted to drinking alcohol at an off-campus location and then subsequently riding the bus to a school function as part of the band. The Court of Common Pleas reversed the school board's decision and the school administration appealed.

Issue: Did the school board of education exceed its discretion and misinterpret the school policy regarding students being under the influence?

Holding: The court held that the school board had not exceeded its discretion and did not misinterpret the school's policy regarding students being under the influence. The court also held that the student's conduct of drinking before the school function was enough to prove that the student's violated the school policy.

Reasoning: The court ruled that the school board was supplied with the authority to enforce and interpret its own policy in order to regulate the conduct of its students. The court also ruled that the school board's finding that the students had been drinking was sufficient evidence to prove that the students had violated school policy.

Disposition: The court ruled that the school administration had acted within its discretion and reversed the lower court's decision.

Citation: *Payne v. J.T.N.*, 568 So.2d 830(Ala. Civ. App. 1990).

Facts: A high school student, along with other students, was found to have been drinking alcohol after skipping class and then arriving later smelling of alcohol. The school placed the student in alternative school and restricted the student from participating in other school activities. The high school student filed a petition and the juvenile court ordered that the student

be returned to school and allowed to participate in all school activities. The high school principal and the city board of education appealed the ruling.

Issue: Did the school board still have a valid appeal regarding the suspension of the high school student?

Holding: The court ruled that the high school principal and school board lacked any effective relief which the court could grant.

Reasoning: The court ruled that the student had already graduated and that the court could not grant any effective relief.

Disposition: The Court of Civil Appeals dismissed the issue on appeal and affirmed the lower court's decision.

Citation: *State v. Baccino*, 282 A.2d 869(Del. Super. Ct. 1971).

Facts: The defendant was arrested after the principal of his high school found the defendant to be in possession of drugs. The defendant sought to suppress the evidence as an illegal search under the Fourth Amendment.

Issue: Did the high school principal conduct an illegal search and therefore violate the defendant's Fourth Amendment rights?

Holding: The court held that the high school principal had reasonable suspicion to search the defendant.

Reasoning: The court reasoned that under the doctrine of loco parentis the high school principal had conducted a reasonable search under the circumstances. The court reasoned that the high school principal had a reasonable need to maintain an effective educational atmosphere.

Disposition: The court ruled that the school principal had not conducted an unreasonable search and denied the defendant's motion to suppress.

Citation: *Sutton v. Katy Independent School Dist.*, 961 S.W. 2d 216(Tex Ct. App. 1997).

Facts: The appellant brought an action challenging the school district's decision to remove the appellant to an alternative school program after drugs were found in the appellant's car during a drug search. The District Court granted summary judgment in favor of the school district and the student appealed.

Issue: Is the school board's decision to remove a student to an alternative school reviewable by a court?

Holding: The court ruled that the school board's decision to send the student to an alternative school did not violate the open courts provision of the State Constitution.

Reasoning: The court ruled that the appeal concerned in the open courts provision was actually an appeal to the school commissioner.

Disposition: The court affirmed the trial court's ruling and held that the appellant's claim did not violate the open courts provision of the State Constitution.

Citation: *Joye v. Hunter Cent. Regional High School Bd. of Educ.*, 826 A.2d 624(N.J. 2003).

Facts: The parents of three students brought an action challenging the school's authority to conduct random drug testing for students involved in extracurricular activities and its effect on the students' ability to park at school. The parents sought declaratory and injunctive relief regarding the school's policy and its effect on the students' parking privileges. The Superior Court held that the policy was in violation of the State Constitution and enjoined the school from implementing the policy. The high school appealed and the appellate division of the Superior Court reversed and remanded the decision.

Issue: Did the drug testing policy of students involved in extracurricular activities violate the search and seizure provision of the State Constitution?

Holding: The court held that the drug testing policy did not violate the search and seizure provision of the State Constitution.

Reasoning: The court explained that students involved in extracurricular activities had less of an expectation of privacy than other students. The court reasoned that the students had such a diminished expectation because the students already showered and changed openly in public. Furthermore, the court explained that because students were already subjected to such public display it therefore did not impose such an unreasonable expectation.

Disposition: The court reversed the lower court's decision and reinstated the policy implementing the drug testing.

Citation: *Linke v. Northwestern School Corp.*, 763 N.E.2d 972(Ind. 2002).

Facts: The plaintiffs were students and their parents who challenged the authority of the high school to drug test students who wished to compete in extracurricular activities and students who wished to drive to school. The Circuit Court held that the testing implemented by the school was not unreasonable and the student's appealed to the Court of Appeals. The Court of Appeals reversed and remanded the decision and the Supreme Court of Indiana granted petition to determine if the drug testing policy was reasonable.

Issue: Did the policy implementing drug testing to students involved in extracurricular activities as well as student's opting to drive violate state and federal law?

Holding: The court held that drug testing policy did not violate the searches and seizure clause or the privileges immunity clause of the State Constitution.

Reasoning: The court reasoned that young students in school were entitled to less privacy than ordinary citizens in order to ensure discipline and safety at school. The court explained that the school stood in a position of a guardian and when a student voluntarily opted to participate in activities, the reasonable expectation of privacy decreased. The court explained that the school had an obligation to provide and protect students who were leaders and role models of other students by providing non-punitive drug testing.

Disposition: The court held that the testing was reasonable and upheld the trial court's judgment.

Citation: *Wood v Strickland* (Ark. Ct. of App. 1975).

Key Facts: The respondents, three female students who admitted to "spiking" punch that was served at a meeting attended by parents and students, were suspended for 2 weeks by the principal, subject to the decision of the school board. The school board meeting was that evening and the principal told the students to inform their parents of the meeting. After the girls and parents did not attend the board meeting and information about one of the girls getting into a fight emerged, the school board decided to expel the girls for the remainder of the semester, approximately three months. The plaintiff appealed the decision to District Court.

Issue: Did school officials act out of malice or deliberately infringe upon an individual's rights and restrict student access to due process?

Holding: The court did not agree that the act warranted a compensatory award. The Court held that a school board or school board member, or public official, is not immune from liability for monetary damages under federal statutes if the official knew or reasonably should have known that the action taken by the official within his realm of official responsibility would violate the constitutional rights of the person affected, or unless the official took the action with

the malicious intention to cause a deprivation of constitutional rights or other injury to the person. Damages may generally be awarded only when the official has acted with such an impermissible motivation or with such disregard of clearly established constitutional rights that his action could not reasonably be characterized as being in good faith

Reasoning: The Supreme Court found no absence of evidence before the school board to prove the charge against the respondents. There is no doubt that procedural due process was lacking in the summary suspension of the students and the precipitous board meeting that same evening. The students were denied sufficient notice and an opportunity to appear.

Disposition: The United States Supreme Court ruled in a vote of 5-4 for the plaintiff.

Citation: *In re L.A.*, 21 P.3d 952(Kan. 2001).

Facts: A high school student was adjudicated a juvenile offender after he was suspected and subsequently found to be in possession of marijuana and pills after a hotline service received a tip suspecting the juvenile to possess drugs. The juvenile appealed the adjudication on the grounds that the search was unreasonable, the school administration did not read the juvenile his Miranda warnings, and the juvenile was entitled to a jury trial.

Issue: The main issues included whether the school administration and the police violated the juvenile's right to Miranda warnings, to be free from unreasonable searches, and the right to a jury trial.

Holding: The court held that the juvenile did not suffer any unreasonable searches and that the searches of the juvenile fell under the plain feel exception. The court also held that the police officers were justified in frisking the juvenile and that the juvenile was not entitled to Miranda warnings. Lastly, the court held that the juvenile was not entitled to a jury trial.

Reasoning: The court reasoned that the search of the juvenile was based at its inception on reasonable grounds and therefore the scope of the search was reasonably related to its purpose. The security officer who conducted the search of the juvenile did so for the school administration and therefore was not an agent of the state who was required to give the juvenile Miranda warnings. Moreover, the court stated that the school administration did not need to retrieve a warrant to search the juvenile after the school administration had already found drugs on the juvenile.

The court also explained that the police officers who were conducting a stop and frisk did not need a warrant when the police had witnessed unreasonable or suspicious behavior and therefore discovered evidence in the process of conducting such a search. The police who discovered evidence on the defendant had not violated the Fourth Amendment because the police knew from training that the contents in the juvenile's pocket were drugs. Lastly, the court held that the juvenile was not entitled to a jury trial because the juvenile had not been prosecuted in an adult court and therefore was not entitled to a jury under the juvenile justice code.

Disposition: The court affirmed the lower court's judgment and ruled that the juvenile had been correctly adjudicated as an offender.

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

Facts: The plaintiff was expelled after school administration had been alerted to possible drug activities in the parking lot and a drug dog hit on the plaintiff's car. The police found marijuana residue inside the car and the school administration suspended the student for 10 days. The student was later expelled to alternative school, after a hearing was conducted on behalf of the plaintiff's behavior.

Issue: Did the school board violate the plaintiff's Due Process rights by failing to provide sufficient notification of a hearing? Did the school board violate the plaintiff's Equal Protection rights by expelling the plaintiff when the school board had issued shorter punishments for the same charges against other students? Were the school regulations regarding drug violations vague?

Holding: The court held that the plaintiff had received sufficient notification and hearing prior to suspension. The court held that the hearing prior to expulsion satisfied the Procedural Due Process. The court also held that the school board's expulsion did not violate the plaintiff's Equal Protection rights. The court held that the school board's regulations regarding the drug policy were not vague. Lastly, the court held that alternative school was not a threat to the plaintiff suffering irreparable harm.

Reasoning: The court reasoned that the plaintiff received notification prior to her hearing and that the school administration was not required to provide a framework for disciplinary hearings. Moreover, the court held that the school board did not have to allow the plaintiff an opportunity to cross examine witnesses and that the right to attend school was not a substantive right. The court also explained that the plaintiff had not suffered any Equal Protection violations because the suspension of other students for the same violation had not been equally related. Lastly, the court held that the school board regulations were not vague because the regulation listed expulsion as a possible punishment and the regulation also provided that the principal would define the conduct necessary to establish a violation.

Disposition: The District Court denied the action and denied the plaintiff's motion for preliminary injunction.

Citation: *People v. Dilworth*, 661 N.E.2d 310(Ill. 1996).

Facts: The defendant was a student at an alternative school who was arrested after a search of the defendant uncovered cocaine in a flashlight owned by the defendant. The defendant moved to suppress the evidence on the grounds that the search violated the defendant's right to be free from unreasonable searches and seizures. The defendant was found guilty in District Court and upon appeal the court reversed the District Court's judgment.

Issue: Did the defendant's flashlight constitute contraband and did the search of the defendant violate the Fourth Amendment?

Holding: The court held that the flashlight did not constitute contraband and therefore could not have been searched as such. However, the court held that the search of the defendant was not controlled by probable cause but by reasonable suspicion and therefore the search did not violate the Fourth Amendment.

Reasoning: The court explained that the flashlight owned by the defendant did not fall under the category of being a blunt item and therefore could not have been searched as a prohibited item. However, the court reasoned that the security officer had reasonable suspicion to search the student because the security officer had received information that the student possessed drugs. The court stated that the security officer could have reasonably suspected that a flashlight would be an easy place to hide drugs and was therefore reasonable to search it. Lastly, the court determined that because the search was justified from its exception and reasonably related in scope that the search was not unreasonable under the Fourth Amendment.

Disposition: The court reversed the Court of Appeals and affirmed the District Court's decision.

Citation: *T.M.M. v. Lake Oswego School Dist.*, 108 P.3d 1211(Or. Ct. App. 2005).

Facts: The appellant sought review of the school board's decision to expel the appellant after he was discovered to be in the bathroom smoking marijuana. The Circuit Court dismissed the petition for review and the appellant appealed the decision.

Issue: Did the school board violate the appellant's right to council when the school board considered evidence during the appellant's expulsion hearing contrary to the Exclusionary Rule?

Holding: The court held that the Exclusionary Rule did not apply to student expulsion hearings.

Reasoning: The court held that the appellant did not have a right to council when the school administration questioned him about smoking marijuana in the bathroom. The court also reasoned that the school board did not error in its decision to expel the appellant because the Exclusionary Rule did not apply regarding the expulsion hearing.

Disposition: The court affirmed the District Court's judgment and ruled that the Exclusionary Rule did not apply in school expulsion hearings.

Citation: *Sweet v. Childs*, 507 F. 2d 675 (5th Cir. 1975).

Key Facts: Parents, on behalf of Black students expelled from school during a staged sit-in, brought a civil action against county and state officials alleging violations of their Thirteenth Amendment rights, freedom of speech and assembly, and Procedural Due Process. The District Court granted summary judgment on behalf of the defendants because the plaintiffs' failed to raise any genuine issues of material fact. The petitioners appealed the District Court's decision.

Issue: The main issue in this case was whether the suspensions of the high school students violated the Fourteenth Amendment Equal Protection Clause and Procedural Due Process?

Holding: The United States Court of Appeals upheld the District Court's decision by granting summary judgment in favor of the defendants.

Reasoning: The Court ruled that in certain circumstances students who were being suspended for 10 days or less did not immediately have to be granted a prior hearing before the mandated suspension. The court stated that when a student's presence poses a continuing danger to either persons or property, or to the learning environment of other students, then that student should be removed as soon as possible. In such situations, a hearing should be granted as soon as possible.

Disposition: The United States Court of Appeals upheld the lower court's decision and upheld the defendant's motion for summary judgment.

Citation: *D.O.F. v. Lewisburg Area School Dist. Bd. of School Directors*, 868 A.2d 28(Pa. Super. Ct. 2005).

Facts: The plaintiff, through his parents, brought a claim after he was arrested for purchasing marijuana and attempting to smoke the drug at the playground of his local high school. The plaintiff was initially suspended for 3 days and then after a hearing was expelled from school. The Court of Common Pleas found that the school should expunge any record of the plaintiff being expelled and the school appealed.

Issue: Was the plaintiff under the supervision of the board of school directors when the plaintiff packed and smoked marijuana on the school playground?

Holding: The court held that the plaintiff had not been under the supervision of the board of school directors and therefore the school had exceeded its authority under statute.

Reasoning: The court reasoned that usually courts lack jurisdiction to interfere with school disciplinary action unless the school board's conduct is proven to be arbitrary or

capricious. The court ruled that the school board could not interject its own interpretation and abuse its discretion. Therefore, the court ruled that the plaintiff was not under the school's authority and that the school boards interpretation was unreasonable.

Disposition: The court ruled that the school board's decision should be reversed and the plaintiff's record of expulsion expunged.

Citation: *Jackson v. Dorrier*, 424 F.2d 213 (6th Cir. 1970).

Key Facts: Two students, along with their parents, brought an action against the principal of their school, along with the board of education, over a regulation that prohibited the two students from wearing long hair at school. After meetings with both the principal and the board of education, the plaintiffs brought an action. The plaintiffs sought to eliminate the regulations imposed and prevent the school from expelling them after being readmitted.

Issue: The main issues in this case included whether the regulation enforced by both the principal of Donelson High School and the board of education violated the plaintiffs' rights to Due Process as well as violated their constitutional rights to privacy under the First, Third, Fourth, Fifth, Ninth, and Fourteenth Amendments?

Holding: The United States Court of Appeals held that the lower court committed no error in dismissing the present case.

Reasoning: The United States Court of Appeals held that the plaintiff's rights were not violated when both the pupils had hearings before and after their suspensions with the principal of their high school. Also, the court determined that the plaintiffs also had a hearing with the board of education after their suspension, which did not violate their constitutional rights.

Disposition: The United States District Court upheld the lower court's decision and dismissed the plaintiff's complaint.

Citation: *State v. Crystal B.*, 24 P.3d 771(N.M. Ct. App. 2000).

Facts: The juvenile appealed her conviction after she was witnessed smoking by a security officer off of school property with other students. The assistant principal picked up the children and searched them individually when they arrived at school. The assistant principal discovered a small marijuana roach at the bottom of the juvenile's bag and she was suspended. The juvenile was sentenced by the District Court to 6 months' probation and the juvenile appealed the judgment.

Issue: Did the assistant principal violate the juvenile's Fourth Amendment rights by detaining and searching her?

Holding: The court held that the assistant principal did not have the authority to detain the student while she was off of school property. The court also agreed that the juvenile was sufficiently aggrieved by consequences of consent decree that the Court of Appeals would allow on appeal. Lastly, the court held that the search conducted by the assistant principal was a violation of the Fourth Amendment and that any evidence seized as a result was tainted.

Reasoning: The court reasoned that the legality of a search depended upon the reasonableness of a search regarding the education related goals of the school. Moreover, the court explained that the assistant principal had no education related goals because the juvenile was not located on school property.

Disposition: The court stated that the search was a violation of the juvenile's Fourth Amendment rights and reversed the lower court's decision and remanded the action.

Citation: *Covington County v. G.W.*, 767 So.2d 187(Miss. 2000).

Facts: A high school student was suspected of drinking alcohol in the parking lot of his high school and was subsequently questioned and searched. The school resource officer

discovered unopened beer in the student's truck and the student was suspended and expelled from school. The student challenged the decision and the Chancery Court held that the student be placed back in school. The school district appealed the judgment claiming that the student had been provided appropriate Due Process regarding the student's disciplinary hearing and that the school did not need a warrant to search the student's truck.

Issue: Did the school district violate the student's Due Process rights and did the school need a search warrant in order to search the student's truck?

Holding: The court held that the school did not violate the student's Procedural Due Process rights and that the school did not need a search warrant to search the student's truck. The court also held that hearsay evidence was admissible during suspension disciplinary hearings.

Reasoning: The court reasoned that the student's Due Process rights had not been violated, simply because the student had been informed of his hearing by the superintendent rather than the school's board attorney. The court also stated that the school principal had received notification that the student had been drinking and that a search warrant would not be necessary. Lastly, the court explained that the hearsay exception did not apply in disciplinary proceedings and therefore the school administration did not violate the student's Due Process rights by admitting hearsay testimony.

Disposition: The court reversed the lower court's ruling and remanded the action to be consistent with the school district's decision.

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

Facts: The plaintiff was a high school student who was suspended for possessing alcohol at another high school. The plaintiff did not contest to the fact that he was in possession of the

alcohol but challenged the suspension on the grounds that the school violated his Due Process rights and that the school disciplinary policy was unconstitutionally applied.

Issue: Did the school violate the plaintiff's Due Process rights and unconstitutionally apply the school disciplinary code regarding the plaintiff's possession of alcohol on school property?

Holding: The court held that the plaintiff possessed alcohol at a school-sponsored activity and that the disciplinary policy was constitutionally applied. The court also held that the principal complied with Due Process requirements and that the decision to suspend the plaintiff was not arbitrary.

Reasoning: The court reasoned that the school, for all purposes, had scheduled and funded a basketball tournament with eligibility requirements designed to be a school function. The court also stated that the school had an educational interest in preventing the consumption of alcohol on school property and therefore the suspension was not unrelated to the disciplinary code. The court also explained that the plaintiff never contested the accusations and had been told of his suspension. Therefore the court stated that the school's action did not violate the student's Due Process rights and that the decision was not arbitrary.

Disposition: The court granted summary judgment in favor of the defendants and set aside the pretrial conference and the trial regarding the plaintiff's action.

Citation: *Byrd v. Irmo High School*, 468 S.E.2d 861(S.C. 1996).

Facts: The appellant brought an action for his son who was suspended after he consumed alcohol at an off-school location and returned to a high school football game intoxicated. The school resource officer and school administration smelled the alcohol on the appellant's student's

breath and subsequently suspended the student for 10 days. The Circuit Court dismissed the action and the appellant appealed the judgment.

Issue: Does the case as presented fall within the evading review exception of the mootness doctrine and does the suspension of the appellant's son fall under the circuit courts review?

Holding: The court held that the less restrictive approach was the appropriate standard in determining applicability of the evading review standard of the mootness doctrine. The court also held that the suspension, unlike the expulsion of a student, was not appealable in circuit courts.

Reasoning: The court reasoned that the least restrictive approach would be implemented and applied in this case because the court did not require that there be a reasonable expectation that the same complaining party be subjected to the action again. Moreover, the court stated that suspensions, unlike expulsions, were likely to be decided long before the court could take any action regarding the action.

Disposition: The court affirmed the Circuit Court's judgment and dismissed the action.

Citation: *Hasson v. Boothby*, 318 F.Supp. 1183(D. Mass. 1970).

Facts: Students brought an action claiming that their Due Process rights had been violated when school administration placed the students on probation for 1 year after the students arrived at a school dance intoxicated. The students alleged that their Due Process rights had been violated because the punishment that the school administration implemented had not been published prior to the students' conduct.

Issue: Did the school district violate the students' Due Process rights when the district implemented a punishment that had not been recorded regarding the students' conduct?

Holding: The court held that just because the students did not have prior knowledge of their punishment did not render the punishment a violation of the students' Due Process rights.

Reasoning: The court reasoned that the school administration had the authority to implement discipline by suspending and expelling disruptive students. The court also explained that the students knew that their conduct was prohibited and the students had admitted to the school administration that they had been drinking. Moreover, the court stated that the punishment was not so severe to render the students in jeopardy of losing their Due Process protections. Lastly, the court concluded that the punishment was related and reasonable under the circumstance and that the students had been informed of their probation.

Disposition: The court held that the students' Due Process rights had not been violated and dismissed the action.

Citation: *Ratner v Loudoun County Public Sch.* (Vir. Ct. App. 2001).

Key Facts: The student was found in possession of a knife on school grounds. The school administrator recommended a 10-day suspension for violation of school policy and the superintendent recommend expulsion for remainder of the school term. The plaintiff, on behalf of her daughter, brought an action asserting a violation of the Fourteenth Amendment. The District Court dismissed the plaintiff's claim and upheld the school board's decision. The plaintiff then appealed the District Court's decision.

Issue: The main issue in this case was whether the student's Fourteenth Amendment rights were violated.

Holding: The District Court of Appeals upheld the lower court's decision and ruled in favor of the defendants.

Reasoning: The court stated,

We are not properly called upon to judge the wisdom of a zero tolerance policy or the sort alleged to be in place or its application. Instead, our inquiry here is limited to whether Ratner's complaint alleges sufficient facts which if proved would show that the implementation of the school's policy in this case failed to comport with the United States Constitution. We conclude that the facts alleged in this case do not so demonstrate.

Therefore, it was determined that the defendants had provided adequate due process opportunities and operated within their established authority.

Disposition: The District Court of Appeals upheld the lower court's decision and agreed that no due process violations occurred.

Citation: *Kelly v. Martin*, 490 P.2d 836(Ariz. Ct. App. 1972).

Facts: A student brought a special action challenging school expulsion after the student was suspected and arrested for using and distributing drugs at school. The Superior Court entered a judgment reversing the expulsion and the school officials appealed.

Issue: Did the school board abuse its discretion by expelling the appellee for his first offense of distributing drugs on school property?

Holding: The court held that it could not say that the school board abused its discretion in expelling the appellee.

Reasoning: The court reasoned that the school board had an obligation and a duty to protect its students from possible exposure to drug-related crimes. The court also stated that the school board had within its discretion the authority to suspend or expel students for such behavior. Lastly, the court concluded that the court did not have any authority to interfere with the school board's disciplinary decisions unless such behavior was deemed to be arbitrary and unreasonable.

Disposition: The court reversed the lower courts judgment and held that the school board had not violated its authority by suspending the appellee.

Citation: *Haas v. West Shore School Dist.*, 915 A.2d 1254(Pa. Commw Ct. 2007).

Facts: a Father appealed his son's expulsion after school administration expelled the student for drinking from a container that contained alcohol. The Court of Common Pleas affirmed the school administration's decision and the father appealed the judgment.

Issue: Did the court have the authority to hear the appellant's appeal and did the school district have sufficient evidence to establish whether the appellant's son consumed alcohol? Also, did the school administration need to obtain prior written permission from the student before the school could take any surveys or evaluations of incriminating behavior?

Holding: The court held that the student's expulsion was subject to review and that the evidence was sufficient to establish that the student had consumed alcohol. Lastly, the court held that district policy regarding surveys and incriminating behavior did not apply to student disciplinary hearings.

Reasoning: The court explained that the school board's expulsion of the appellant's son qualified as local agency adjudication and therefore qualified the matter as one that could be challenged in a court. Moreover, the court established that the school had enough evidence to conclude that the appellant's son had consumed alcohol because of tests administered the day of the incident. Lastly, the court stated that the administrative code regarding surveys and studies did not apply to school administration. The court concluded that 22 Pa. Code. 4.4(d) only applied to outside entities and therefore was not applicable to the appellant's case.

Disposition: The court upheld the lower court's judgment and affirmed its ruling stating that the student's expulsion was warranted by substantial evidence.

Citation: *J.S. v. Blue Mountain School Dist.*, 593 F.3d 286(3d Cir. 2010).

Facts: Parents, on behalf of their student children, filed an action against the school district alleging that the school district violated their rights to free speech, Due Process, and Fourth Amendment rights by suspending the plaintiffs' children for 10 days. The incident occurred after plaintiffs' children created a fictional website that portrayed their high school principal as a being addicted to sex as well as being a homosexual. The United States District Court granted the school district's motion for summary judgment and the parents appealed the judgment.

Issue: The main issues in this case include whether the school computer-use disciplinary policies were unconstitutionally vague, whether the school disciplinary policy was vague, if the suspension infringed on the parents' Fourth Amendment rights, if the suspension violated the students' First Amendment rights, and whether the students' out-of-school speech and conduct was subject to the disruption standard?

Holding: The court held that the students' out-of-school speech and conduct was subject to the disruption standard. The court held that the students' suspension did not violate the parents' right to direct the upbringing of their children and that the suspension did not violate the students' First Amendment rights. Lastly, the court held that the school's computer-use policy did not violate the Constitution and that the disciplinary policy was not unconstitutionally vague.

Reasoning: The court stated that students did not have a constitutional right to any lewd, offensive, or indecent speech. Moreover, the court ruled that the students' could be punished for such lewd and disruptive speech while being off campus if such speech disrupted the school atmosphere. The court explained that the speech involved in the students' website would be classified as being a substantial disruption that would interfere with schoolwork and therefore

would have been prohibited. The court stated that the students' interest did not outweigh the school's interest in preventing false and possibly harmful language.

The court also reasoned that the school policies were not vague or overbroad because the school administration had an overwhelming interest in preventing such behavior. In the case involving the plaintiffs the disciplinary policies were not so restrictive that it would unreasonably limit student speech and conduct. The court also explained that the school district had the authority to enforce and control certain conduct. Lastly, the court concluded that the school disciplinary policies were not void for vagueness regarding Due Process standards because the school policies provided ample opportunity for the students to conform to school regulations.

Disposition: The court dismissed the plaintiffs' complaints and affirmed the lower court's judgment.

Citation: *Goss v. Lopez*, 95 S.Ct. 729(1975).

Facts: Students brought a class action lawsuit challenging their suspension after school officials suspended them for being involved in a school cafeteria protest in which police officers were harmed. The students' challenged their suspension under Ohio statute claiming that the school denied the students the chance to review their suspension within a reasonable amount of time either prior to or after being suspended. The District Court for the Southern District held that the students were denied Due Process and the statute was unconstitutional.

Issue: Did the school administration violate the students' rights to Due Process by not affording the student's an appropriate hearing after the students were suspended for protesting?

Holding: The court held that the students were entitled to protections under the Due Process clause and that there were situations in which students were entitled to a hearing as soon as possible after being suspended.

Reasoning: The court reasoned that students were entitled to Fourteenth Amendment protections because students do not shed their constitutional protections at the schoolhouse door. The court explained that the students were entitled to a hearing when the school or government attempted to withdraw public education rights. Moreover, the court explained that all residents were entitled to constitutional protections regarding public education because state statutes directed local authorities to provide all residences with a free education. The court went further to establish that a suspension could damage any standing with fellow pupils and teachers that a student may have with their educational opportunities. Therefore, the court concluded that student's facing expulsion must be given the opportunity to be heard and challenge any charges alleged against them.

Disposition: The court held that the students' were entitled to a hearing and affirmed the lower court's decision.

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

Facts: The plaintiff filed a complaint alleging that school administration violated his Due Process rights by failing to provide appropriate notice regarding the plaintiff's disciplinary hearing and that the provisions of the school athletic code were unconstitutional. The plaintiff alleged that the school administration unreasonably relied upon unreliable evidence in conducting its hearing and violated state laws regarding the plaintiff's suspension from athletics for 1 year.

Issue: The main issues were whether the athletic association failed to provide adequate notice, whether the plaintiff was entitled to a hearing, whether portions of the athletic code

violated the plaintiff's Due Process rights, and if the evidence presented was insufficient to support decisions to suspend the plaintiff?

Holding: The court held that the statements provided by the school administration did not provide adequate Due Process for the plaintiff. The court also held that the plaintiff was entitled to a fair hearing regarding his suspension from school athletics. The court held that the provision allowing the athletic director to review his own disciplinary decisions violated Due Process. Lastly, the court concluded that the evidence presented was insufficient to support the suspension of the student from athletics.

Reasoning: The court explained that although there was not a constitutional guarantee in playing athletic sports, the court did however require that such activities conform to Due Process and Equal Protection rights. The court went further and explained that some form of hearing had to be implemented when depriving a student from participating in these activities due to conduct. Moreover, the court stated that the student who was being suspended had to be informed of the charges alleged against him in order to properly defend against the charges. The court also noted that the authority the high school athletic code granted the athletic director in making decisions involving the plaintiff's suspension violated Due Process.

The court explained that a person such as the athletic director who could affect the outcome of the plaintiff's suspension must not unreasonably affect the suspension. Lastly, the court concluded that the evidence standard used during disciplinary hearings was constitutional as long as the disciplinary hearing did not use the Fifth Amendment rights of the plaintiff during the hearing. The court stated that the school administration could not condemn the plaintiff for remaining silent under the Fifth Amendment solely because the plaintiff did not wish to further incriminate himself.

Disposition: The court held that the defendant's amended summary judgment motion was granted in part and denied in part. The court dismissed the plaintiff's pre-deprivation Due Process claim and the plaintiff's state law claims were dismissed. The court did not dismiss the plaintiff's final decision Due Process claims and dismissed a defendant on qualified immunity standards.

Citation: *Farrell v. Joel*, 437 F.2d 160(2nd Cir. 1971).

Facts: The plaintiff brought an action after being suspended from school for participating and leading a school sit in. The plaintiff alleged that the school administration violated the plaintiff's Due Process rights when the school board suspended the plaintiff without giving the plaintiff written notice of the charges alleged against her.

Issue: Did the school administration violate the plaintiff's Due Process rights by not informing the plaintiff of the charges alleged against her?

Holding: The court held that the school administration did not violate the plaintiff's Due Process rights because the plaintiff had willingly admitted to participating in the demonstration.

Reasoning: The court explained that the plaintiff did not lose any Due Process rights because the plaintiff had voluntarily admitted to participating in the conduct she was accused of committing. The court stated that the plaintiff had no reason to call witnesses because the plaintiff did not dispute the allegations alleged against her.

Disposition: The court denied the plaintiff's complaint and affirmed the suspension.

Citation: *Lee v. Macon County Bd. of Ed.*, 490 F.2d 458(5th Cir. 1974).

Facts: A mother brought an action on behalf of her daughter alleging that the school violated her child's Due Process rights after the school board relied solely on the testimony of

the high school principal during the student's disciplinary hearing. The United States District Court denied the plaintiff's motion for emergency relief and the plaintiff appealed.

Issue: Did the school administration violate the student's Due Process rights by employing an erroneous standard at the student's disciplinary hearing?

Holding: The court held that the school board employed an erroneous standard by not conducting a formal hearing and solely relying on the judgment of the high school principal.

Reasoning: The court reasoned that the disciplinary hearing had a duty to employ a legal standard that was not solely based on the judgment of one individual. The court explained that the school board owed the student a higher degree of Due Process when deciding disciplinary issues.

Disposition: The court vacated the District Court's judgment and remanded the complaint to be decided with the correct legal standard.

Citation: *McNaughton v. Circleville Bd. of Ed.*, 345 N.E.2d 649 (Ohio. Ct. C.P.1974).

Facts: Students challenged their suspension after school administration suspended the students for participating in the hazing of other students for initiation into a school club. The students were called to the principal's office for questioning after one of their fellow classmates had to be taken to the hospital for injuries suffered at the hazing.

Issue: Did the suspension of the students violate their Due Process rights when the school principal did not schedule a more in-depth hearing for determination of facts leading to the suspension?

Holding: The court held that the school had not violated the students' Due Process rights because the students had admitted to their misconduct and knew that such conduct would lead to a suspension.

Reasoning: The court reasoned that the students had been informed of their conduct and provided with the minimal standards of Due Process. The court further explained that the students had admitted to their actions and that the students had been aware that such conduct would result in suspension. The court stated that students who were not suspended over 10 days might be subjected to minimal notification standards when occasion demanded it.

Disposition: The court held that the students were afforded the minimal standards of Due Process and dismissed the complaint.

Citation: *Porter v. Ascension Parish School Bd.*, 393 F.3d 608(5th Cir. 2004).

Facts: A student brought a claim against the principal and other school administrators after the student was removed from school for a drawing a picture depicting the burning of the school. The student brought the notepad from home and was subsequently questioned about the drawing after school administration confiscated the notepad. The District Court for the middle district granted the defendant's summary judgment motion involving the plaintiff's Fourth Amendment and Due process claims. The District Court also granted principal summary judgment on the First Amendment claim and the student appealed.

Issue: Did the plaintiff's sketchpad constitute First Amendment speech and did the school administration violate the plaintiff's Fourth Amendment rights? Also, did the lack of a formal hearing violate the plaintiff's Due Process rights and was the principal entitled to qualified immunity?

Holding: The court held that the sketchpad was protected speech and that the principal was entitled to protected speech. The court also held that the school administration did not violate the student's Fourth Amendment right and that the student did not suffer any Due Process violations.

Reasoning: The court reasoned that although the student's work was protected speech, the school still had an interest in preventing speech that would possibly harm other student's or disrupt the school atmosphere. The court stated that the plaintiff did not have any right in protecting speech that was threatening or harmful. The school did not violate the plaintiff's Fourth Amendment rights because the school had reasonable suspicion to believe that evidence of other infractions would be produced. The court also reasoned that the plaintiff had been afforded the minimal amount of Due Process required under the law because the plaintiff had confessed to the drawing. Lastly, the court explained that the principal was entitled to qualified immunity because the principal's conduct could be seen as objectively reasonable under the situation.

Disposition: The court affirmed the District Court's judgment and granted the defendant's summary judgment claims.

Citation: *Riggan v. Midland Independent School Dist.*, 86 F.Supp.2d 647(W.D. Tex. 2000).

Facts: The plaintiff sued the high school district after being disciplined for allegedly taking photos of his principal in front of another teacher's home and reporting that the principal was having inappropriate sexual relations. The plaintiff was granted a hearing with the principal before being scheduled to appear in two other hearings in which the principal had an active role in the disciplinary decisions made on behalf of the board. The plaintiff brought an action alleging that the school district violated the plaintiff's Due Process rights during all three hearings and that the school district violated the plaintiff's First and Fifth Amendment rights.

Issue: Did the school district violate the plaintiff's Due Process rights, First Amendment rights, and Fifth Amendment rights?

Holding: The court held that the plaintiff had a constitutional right to Due Process and that there were factual questions as to whether the plaintiff received Procedural Due Process during the first hearing. The court also held that there were questions as to whether the plaintiff received Procedural Due process during the plaintiff's second and third hearing in which the high school principal played an intricate part. The court went further and explained that there were issues of fact regarding whether the plaintiff did not suffer First Amendment violations, whether school administration was subject to qualified immunity, and whether there was conspiracy on behalf of the school district to violate the plaintiff's constitutional rights. Lastly, the court held that the modification of the charges alleged against the plaintiff did not violate the plaintiff's Fifth Amendment rights.

Reasoning: The court explained that the plaintiff was entitled to Due Process because the school district was attempting to deprive the plaintiff of an education that was provided by statute equally to all children. Moreover, the court reasoned that the plaintiff possibly suffered Procedural Due Process violations during his first hearing because the plaintiff's principal participated during the hearing. The court stated that because the principal was so intimately involved in the allegations alleged against the plaintiff, it would have been difficult for the plaintiff to receive a fair hearing.

The court went further and stated that because the school board changed the plaintiff's charges from "retaliation" to "disrespect of an adult" that the plaintiff lacked any knowledge of the charges alleged against him. The court also noted that issues of material fact existed regarding the plaintiff's First Amendment rights because the school district never proved that the plaintiff intended to place pictures of the principal on t-shirts and therefore the plaintiff's actions alone would have not disrupted the school atmosphere. Lastly, the court reasoned that the school

district may not have had qualified immunity from suit because the school officials may have known that their actions were unreasonable.

Disposition: The court granted summary judgment in favor of the defendants regarding the plaintiff's Fifth Amendment and Substantive Due Process claims. The court denied the defendants' summary judgment motions on all other claims.

Citation: *M.S. v. Eagle-Union Community School Corp.*, 717 N.E.2d 1255(Ind. Ct. App. 1999).

Facts: The petitioner brought a claim seeking an appeal regarding a school disciplinary action that removed the petitioner from geometry class after the petitioner was repeatedly tardy for class on a number of occasions. The petitioner had been warned and received detention for his first offenses but continued to arrive late to class. The petitioner appealed the school district's decision to affirm the school's decision and the trial court granted summary judgment in favor of the school. The petitioner sought an appeal that brought the case before the Court of Appeals of Indiana.

Issue: The main issues in this case was whether the school's disciplinary action violated the Student Discipline Act, whether the Student Discipline Act relieved schools of a 6-hour instructional minimum, whether the petitioner received appropriate Due Process, if the change of venue was properly denied, and if the judicial review section of the Student Disciplinary Code was Constitutional?

Holding: The court held that the removal of the petitioner from geometry class did not violate the Student Disciplinary Act and the Act relieved the school of the 6-hour minimum regarding instructional requirements. The court also ruled that the petitioner had received appropriate Due Process and that venue was appropriately dismissed at the trial court level.

Lastly, the court held that the judicial review section of the Student Disciplinary Act was not unconstitutional.

Reasoning: The court reasoned that the principal was acting under the Student Disciplinary Act as the “principal’s designee” and therefore the removal of the petitioner from geometry class was not a violation. The court also stated that the Act allowed the principal to remove the petitioner regardless of the 6-hour limitation because the student was still enrolled in school. The principal also notified the petitioner of his tardiness and the consequences of being late. The court went further and noted that the petitioner had been afforded appropriate Due Process because the petitioner had been warned and even had a hearing regarding the issue. The court explained that the court properly dismissed the change of venue motion because there was no evidence that the trial would be unfairly biased solely because the parents of the petitioner had another case in the court system at that time. Lastly, the court determined that the judicial review section of the Act did not deny the court’s judicial review and was therefore not unconstitutional.

Disposition: The court affirmed the lower court’s decision and upheld the schools decision to withdraw the petitioner from geometry and place him in study hall.

Citation: *J.T. v. State*, 718 N.E.2d 1119(Ind. Ct. App. 1999).

Facts: A juvenile was suspended from school after the school librarian found a printout of a black magic ritual that the juvenile attempted to print out in the library. The ritual contained the death of another classmate. The court adjudicated the juvenile stating that if the juvenile would have been of age the charges would have resulted in two misdemeanor convictions of harassment and intimidation. The juvenile appealed the conviction to the Court of Appeals.

Issue: Did the state present sufficient evidence to support the findings that the juvenile committed acts that would result in misdemeanor convictions if committed by an adult?

Holding: The court held that the juvenile's confession that she authorized the letter detailing the black magic ritual did not amount to intimidation and that the interception of such a letter did not amount to communication of a threat to another individual. Lastly, the court held that the authorship of the letter did not result in a misdemeanor of harassment.

Reasoning: The court reasoned that the juvenile was entitled to Due Process of law that required the state to prove beyond a reasonable doubt that the juvenile was guilty of the crimes committed. The court explained that just because the juvenile admitted to writing the note, it did not prove beyond a reasonable doubt that the juvenile intended to intimidate or harass another student. The court stated that the lower court never proved that the juvenile intended to give the letter to the other student and therefore could not be found guilty of the misdemeanors alleged against her. Lastly, the court concluded that the juvenile did not intend the letter to make it to the fellow classmate and therefore it could not be proved that the juvenile committed the misdemeanors.

Disposition: The court reversed the lower court's decision and held that the court lacked sufficient evidence to establish that the juvenile intended the letter to harass or intimidate any other student.

Citation: *London v. Directors of Dewitt Public Schools*, 194 F.3d 873(8th Cir. 1999).

Facts: The appellant and his mother brought an action against the middle school and other school officials alleging that the appellant's Substantive Due Process rights had been violated after the appellant was expelled for fighting with school administration. The District Court

granted summary judgment in favor of the defendants and the appellants appealed the court's ruling.

Issue: The main issues in this case were whether the school administration violated the appellant's Procedural and Substantive Due Process rights? Also, did the school officials discriminate with respect to staffing in its schools?

Holding: The court held that the appellant failed to prove that there was a Substantive or Procedural Due Process violation that occurred regarding the suspension and expulsion of the appellant. The court also held that the plaintiffs failed to prove that there was unconstitutional discrimination with respect to staffing in the school.

Reasoning: The court reasoned that the appellant had been given all the procedural process required by law when the schools choose to punish the appellant. The court also stated that the school had been given the authority to punish its students for violations that included suspending and expelling students for fighting with school administration. The court explained that the appellant had failed to prove that the actions taken by the school shocked the conscience and therefore were not a Substantive Due Process violation. Lastly, the court concluded that the appellant failed to prove that the school administration chose not to hire Black faculty or that the school currently employed segregation techniques.

Disposition: The court affirmed the lower court's decision and held that the appellant's Due Process rights had not been violated nor had the school discriminated with respect to staffing.

Citation: *Carey v. Maine School Administration Dist. No. 17*, 754 F.Supp. 906(D. Me. 1990).

Facts: The plaintiff brought an action on behalf of his son alleging that the defendants violated his son's Fourteenth Amendment rights and other various state law claims after the plaintiff's son was suspended from school for allegedly bringing a gun on school property. The plaintiff's son was suspended after school officials received reports from other students alleging that the plaintiff's son had brought a gun to the school. The school suspended the plaintiff's son for 10 days and recommended to the school board that the boy be expelled for his conduct. The school board conducted a hearing but refused to allow the plaintiffs to speak on behalf of their son's medical issues and refused to allow other student's to testify on behalf of the plaintiff's son.

Issue: The main issues included whether the school violated the plaintiff's son's Procedural Due Process rights, the Education of All Handicapped Children Act, and whether the school intentionally inflicted emotional distress.

Holding: The court held that the school did not violate the child's Procedural Due process Rights or the Education of All Handicapped Children Act. Lastly, the court stated that it lacked jurisdiction to hear any state law claims regarding intentional infliction of emotional distress.

Reasoning: The court reasoned that the plaintiff's child had not suffered a Due Process violation because the child and his parents had received notification of the hearing as well as been given the opportunity to be heard. The court stated that the plaintiff had been given an opportunity to testify and from the record the school did not restrict the plaintiff from fostering any evidence in support of his child. The court also explained that the plaintiff had not utilized all of the resources available before filing a complaint. The court determined that the plaintiff failed to exhaust all remedies under the Education of All Handicapped Act. Lastly, the court

concluded that the plaintiff lacked jurisdiction regarding an intentional infliction of emotional distress claim.

Disposition: The court dismissed the plaintiff's complaint and granted the defendant's motion for summary judgment?

Citation: *Bright v. Isenbarger*, 314 F. Supp. 1382(N.D. Ind. 1970).

Facts: Students brought an action after a school suspended and expelled two students for skipping class as outlined within the schools new disciplinary policy. The students brought the appeal seeking preliminary injunction alleging that the school violated the students' Procedural Due Process rights.

Issue: Did the school violate the plaintiff's constitutional rights to Due Process by expelling the students not in accord with state statute?

Holding: The court held that the expulsion was not constituted as a state action and that the expulsion did not violate the student's right to Procedural Due Process.

Reasoning: The court ruled that the school had not acted under state action because the school was considered a private institution. Moreover, the court ruled that the school did not fall into the category of "state action" as the plaintiff alleged because the statute providing civil action for deprivation of rights did not apply to private institutions.

Disposition: The court denied the plaintiff's motion for preliminary injunction and granted the defendant's motion to dismiss.

Citation: *Texarkana Independent School Dist. v. Lewis*, 470 S.W.2d 727(Tex. Civ. App. 1971).

Facts: Multiple students brought a class action suit when the students were expelled from high school after participating in a massive fight on school property. The high school principal

conducted a survey to determine which students had participated in the fight and scheduled hearings to decide whether or not to expel the students. Seventy-six classmates were expelled and the students appealed the school board's decision to the District Court. The District court held that the guidelines adopted by the school board were vague and void for vagueness. The District Court also held that the expelled students were not granted Procedural Due Process because the students did not receive specific written notice of the alleged charges and were not allowed sufficient time to prepare for a defense.

Issue: Did the school board adopt special guidelines that were overbroad and void for vagueness? Also, did the expulsion of the students violate Due Process?

Holding: The court held that the special guidelines adopted by the school were not void or overbroad. The court also held that the students had suffered a Procedural Due Process violation because the students did not have adequate time to prepare for a hearing and the students did not receive appropriate notice of the charges alleged.

Reasoning: The court reasoned that the legislature had given the school system the authority to promulgate and develop regulations best suited for the benefit of their schools. The court also noted that school officials had the duty to inform students to the best of their knowledge of the charges alleged against them and of any hearing regarding those charges. The court also stated that the students had the right to know of the witnesses being called against them, that the students had the right to council, and that the students could record the evidence presented against them. In light of the situation, the court explained that the students had not been afforded the appropriate procedural notifications required under the Constitution.

Disposition: The court ruled that the guidelines adopted by the school were not vague or overbroad and affirmed the lower court's judgment regarding the students' Procedural Due Process violations.

Citation: *Dejesus v. Penberthy*, 344 F.Supp. 70(D. Mass.1972).

Facts: The plaintiff brought a suit on his behalf and through his mother alleging that his Due Process rights had been violated after he was expelled for punching another student. The school conducted a hearing and the student was found responsible for the charges alleged against him. The plaintiff challenged the board's ruling.

Issue: Did the school board deny the plaintiff's right to Due process when the school board improperly informed and conducted a disciplinary hearing regarding the plaintiff's conduct?

Holding: The court held that the school board violated the plaintiff's Due Process rights by relying on hearsay evidence to determine whether the plaintiff struck another student.

Reasoning: The court reasoned that the plaintiff was denied Due Process because the school board had nothing to indicate that the plaintiff had struck another child and that critical facts had been in dispute during the hearing. The court also stated that the school board lacked confirmation that the cross-examination in the absence of any justifying circumstances was a Due Process violation.

Disposition: The court stated that the school board violated the plaintiff's Procedural Due Process rights and granted the plaintiff leave to amend the complaint unless a new hearing was conducted.

Citation: *Board of Educ. of Monticello Cent. School Dist. v. Commissioner of Educ.*, 690 N.E.2d 480(N.Y. 1997).

Facts: A student was suspended from school for allegedly creating a newspaper that encouraged the destruction of school property. The school board conducted a hearing and determined that the evidence presented supported the charge of endangering the health, safety, and welfare of the school. The student was suspended. The student appealed the decision to the superintendent and the superintendent held that the student had not been afforded appropriate Due Process and that the evidence did not support the charge. The school board denied the superintendent's judgment and challenged the superintendent's decision. The appellate division reversed the order, stating that the student had received appropriate Due Process. The superintendent and the student appealed the appellate court's decision.

Issue: Did the school board violate the student's Due Process rights by improperly providing notice of the charges alleged against the student and did the superintendent improperly apply the recorded evidence regarding the student's suspension?

Holding: The court held that the notice given to the student satisfied Due Process requirements and that the testimony of the students admitting to the conduct was sufficient to support the school board's decision. Lastly, the court held that the superintendent improperly applied an erroneous assumption concerning the record of evidence and implied a faulty judgment.

Reasoning: The court reasoned that the student was not entitled to the standards associated with a criminal trial. The court went further and explained that the school board did not have to provide the student with a detailed statement of the statute in order to adequately notify the student. The court explained that the student had received notice that a hearing would be conducted along with the charges alleged against the student. The school board also informed the student that counsel could be present and that the student would have the opportunity to

cross-examine any witness against him. Lastly, the court concluded that the student had admitted to the charges alleged against him and that was enough to satisfy the evidence required to affirm the school board's judgment. The court stated that the superintendent had applied an improper standard in deciding the student's case and agreed with the school board.

Disposition: The court affirmed the lower court's decision and affirmed the school's suspension of the student.

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

Facts: A high school student sued a school district after the student was suspended from her high school for making inappropriate comments directed at school administration. The student brought a complaint alleging that the high school principal and the superintendent violated her constitutional rights because she was a Caucasian woman carrying an African American baby.

Issue: Did the defendants violate the plaintiff's constitutional rights to the First Amendment and the Fourteenth Amendment?

Holding: The court held that the defendants did not violate the plaintiff's Substantive Due process rights by issuing a 5-day suspension. The court also held that the right to attend high school does not fall within a category of fundamental rights under the protection of Substantive Due Process. The court held the student did not suffer any Procedural Due Process violations and that the plaintiff did not suffer any First Amendment violations for having to apologize for her conduct. Lastly, the court held that the plaintiff failed to establish that her Fourteenth Amendment rights regarding Equal Protection had been violated.

Reasoning: The court explained that the plaintiff did not have a constitutional right to attend school. Moreover, the court reasoned that the plaintiff had not suffered a Procedural Due

Process violation because she had not pursued every available option open to appealing the school district's decision. The court also stated that a simple apology letter requiring the plaintiff to apologize for disruptive behavior was well within the school's authority and did not violate the plaintiff's First Amendment rights. Lastly, the court held that the plaintiff had failed to show that the defendants had treated her any differently than any other student and therefore declined the plaintiff's argument regarding a violation of Equal Protection.

Disposition: The court denied the plaintiff's motion and dismissed the complaint.

Citation: *Whitfield v. Simpson*, 312 F.Supp. 889(E.D. Ill. 1970).

Facts: The plaintiff, by and through her mother, brought a complaint alleging Procedural Due Process violations after school officials suspended and then expelled the plaintiff for gross misconduct of school rules. The plaintiff alleged that Section 10-22.6, Chapter 10 of the Illinois statute was unconstitutional on its face and did not afford the plaintiff with appropriate Procedural Due Process. The plaintiff sought that the statute be enjoined from being enforced and that the plaintiff be readmitted back into school.

Issue: Was the revised Illinois statute unconstitutional on its face and did the statute deny the plaintiff Procedural Due Process?

Holding: The court held that statute was neither void for vagueness nor a violation of the Due Process Clause of the Fourteenth Amendment.

Reasoning: The court explained that the plaintiff did have a constitutional right to free speech but the plaintiff did not have the right to express that speech when it conflicted with the discipline and welfare of the school. The court also noted that under the totality of the circumstance, the plaintiff did receive fair procedural protections. Lastly, the court concluded

that no standard was prescribed for appropriate Procedural Due Process but the plaintiff did receive notification, a reasonable opportunity to prepare, and a fair and impartial hearing.

Disposition: The court dismissed the complaint and held that the Illinois statute did not violate the constitutional rights of the plaintiff.

Citation: *In re N.Y.B.*, 750 N.W.2d 318(Minn. Ct. App. 2008).

Facts: The plaintiff brought a complaint alleging that the Amoka-Hennepin School District violated the plaintiff's Due Process rights when the school the plaintiff attended expelled her for fighting with another student. The student was expelled for violating the district's physical-aggression policy and the board of education agreed with the school administration and expelled the plaintiff. The superintendent of the school district agreed expulsion was appropriate for the plaintiff's conduct but stated that the school board's written explanation was inadequate. The school board convened an emergency meeting to comply with the commissioner's directions and amended its resolution in accordance with the commissioner's directions.

Issue: Did the school board improperly apply the Pupil Fair Dismissal Act and therefore deprive the plaintiff of her Due Process rights?

Holding: The court held that the school board was required to adequately explain the basis for its decision to expel the plaintiff and that the school board did not violate the plaintiff's Due Process rights by failing to provide the student with a list of low cost counsel.

Reasoning: The court stated that the school board had a duty to explain its decision for expelling the student with factual content and the board had an obligation to explain how the plaintiff's conduct violated the school district's policy. Moreover, the court reasoned that the school board had to explain to the plaintiff how it reached its decision in accordance with the Pupil Fair Dismissal Act. The court also reasoned that the plaintiff had a property interest in

attending school and that the plaintiff was entitled to adequate Due Process when the school board expelled the plaintiff. The court concluded that the school board had provided appropriate standards in accordance with the plaintiff's Fourteenth Amendment rights. Moreover, the school board did not violate the plaintiff's Due Process rights by not providing a list of low cost counsel because the plaintiff found representation on her own.

Disposition: The court remanded the complaint in order to compel the school board to explain the reasons for the plaintiff's dismissal but denied the plaintiff's request for relief regarding the Due Process claims.

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

Facts: The plaintiff brought a complaint after he was suspended from school for using foul language directed at school administration and for directly interfering with school administration by challenging the school administration's authority. As a result, the school administration scheduled a meeting with the plaintiff and ultimately suspended the plaintiff from participating in commencement and other school activities. The school principal called the plaintiff's mother and suspended the plaintiff without giving the plaintiff an opportunity to be heard. The plaintiff brought a complaint alleging that the school district violated his civil rights.

Issue: The main issues included whether the school board violated the plaintiff's Due Process rights, the plaintiff's First Amendment rights, and whether the school boards policies were overbroad and vague?

Holding: The court held that the school board did not violate the plaintiff's Procedural or Substantive Due Process rights. The court also held that the First Amendment did not protect the

plaintiff's insubordinate speech. Lastly, the court held that the school policies were not unconstitutionally vague or overbroad.

Reasoning: The court reasoned that although the plaintiff had the right to be afforded appropriate Procedural Due Process, the plaintiff did not have the right to secure counsel, to confront and cross-examine witnesses, or to call his own witness. Therefore the court ruled that the plaintiff had been afforded appropriate Due Process. Moreover, the court stated that the plaintiff did not have a fundamental Substantive Due Process right to attend school and without a rare case in which the punishment was not related to the incident, the substantive claim would fail.

The court explained that the student did not have a constitutional First Amendment right when the plaintiff's speech interfered with the school and its disciplinary policies. Lastly, the court determined that the school policies were not overbroad because they did not need to be as detailed as criminal codes. The court concluded that the policies were so easy to understand that a person with normal intelligence would comprehend the meaning. Therefore, the plaintiff's language undermined the school administration and violated the school disciplinary code.

Disposition: The court ruled in favor of the defendants and granted the defendants' motion for summary judgment.

Citation: *Wofford v. Evans*, 390 F.3d 318(4th Cir. 2004).

Facts: The plaintiff brought a claim by her mother and next of kin alleging that the school board and school administration violated the plaintiff's Fourteenth and Fourth Amendment rights after the school questioned and searched the plaintiff for allegedly possessing a gun. Fellow classmates accused the plaintiff of having a gun and the school administration, along with police officers, questioned and seized the plaintiff in order to locate the weapon. The plaintiff's mother

was not called until after the plaintiff had been detained and questioned about possessing a gun. The plaintiff filed a complaint and the District Court dismissed the Due Process claim for failure to state a claim and granted the defendant's motion for summary judgment.

Issue: The main issues are whether the police department and school administration violated the plaintiff's Fourteenth Amendment rights and Due Process rights by not calling the plaintiff's parents before questioning the plaintiff?

Holding: The court declined to institute parental notification or banning detentions for a certain amount of time. The court held that the school disciplinary procedures did not violate the plaintiff's Due Process rights, which did not require the school administration to call the plaintiff's parents before questioning the plaintiff. The court held that the school administration did not violate the plaintiff's Fourth Amendment rights.

Reasoning: The court reasoned that the Fifth and Sixth Amendment did not apply in the case involving the plaintiff because the plaintiff was not involved in an actual criminal proceeding. The court also noted that the school administration had an important obligation to perform their duties and prevent weapons from entering onto school property. The court explained further and stated that the school only had an obligation to notify the plaintiff of the charges alleged and the evidence supporting it. If the school had been forced in every situation to call and inform parents during a dangerous situation the school administration would be seriously hampered from performing their job.

Lastly, the court explained that the school administration had reasonable suspicion to assume from complaints that the plaintiff had a weapon and therefore conducted a reasonable search that was related in scope. Moreover, the police operated under lesser standards according

to *Terry*. Therefore, the school administration and the police department were justified from the inception in its search and did not violate the plaintiff's constitutional rights.

Disposition: The court affirmed the lower court's decision and dismissed the plaintiff's Due Process claim and granted summary judgment in favor of the defendants.

Citation: *Achman v. Chisago Lakes Indep. School Dist. No. 2144*, 45 F.Supp.2d 664(D. Minn. 1999).

Facts: The plaintiff brought an action after being suspended for making vulgar and inappropriate comments about another student. The plaintiff had already been adjudicated as delinquent in juvenile court for rapping another student. The in-school suspension supervisor did not feel comfortable being in the same room with the plaintiff. Due to the circumstances, the plaintiff was suspended for 10 days after school administration heard the plaintiff bragging about having sexual intercourse with another student. A hearing was scheduled and the parents of the plaintiff left the hearing yelling after the hearing went afoul. The plaintiff's parents received a written copy detailing the plaintiff's suspension in the mail after school administration made false statements regarding when the suspension notice had actually been drafted. The plaintiff brought an action alleging multiple complaints against the Chisago Lakes School District in the United States District Court.

Issue: The main issues were whether the school district violated the plaintiff's Fourteenth Amendment Due Process rights, the Minnesota Data Practices Act, the Pupil Fair Dismissal Act, and the Family Education Rights and Privacy Act?

Holding: The court held that the principal did not violate the Minnesota Data Practices Act and that the plaintiff failed to make a showing to sustain such a claim. The court held that the school did not violate the Pupil Fair Dismissal Act and that there was no basis for the suit in the

student handbook. The court also held that the school did not violate the Family Education Rights and Privacy Act and that the plaintiff also failed to maintain an action alleging that the school violated his Procedural Due Process rights.

Reasoning: The court reasoned that the school principal had not violated the Minnesota Data Practices Act by simply revealing to another employee in charge of in-school supervision that the plaintiff may have been suffering from abuse at home. The court stated that the student handbook did not provide for the plaintiff to bring a cause of action regarding the Pupil Fair Dismissal Act. The court went further and explained that the plaintiff had been afforded the appropriate standards regarding Procedural Due Process and therefore the plaintiff did not suffer a violation. Lastly, the court noted that one accusation from school administration did not satisfy a claim under the Family Education Rights and Privacy Act.

Disposition: The court denied the plaintiffs complaints and granted summary judgment in favor of the defendants.

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

Facts: The plaintiff filed a complaint after being expelled from school in accordance with a contract the plaintiff signed with the superintendent of the school district. The plaintiff was expelled the previous year for allegedly writing a bomb threat on a chalkboard. As part of an agreement, the plaintiff agreed that he would be expelled if he committed any suspending offenses. The plaintiff brought the complaint seeking preliminary injunction in the United States District Court.

Issue: Did the school violate the plaintiff's Due Process rights after the school expelled the plaintiff without affording the plaintiff a hearing?

Holding: The court held that the student was likely to prevail on the claim and that the balance of harms warranted the granting of a preliminary injunction.

Reasoning: The court reasoned that the plaintiff was unconstitutionally denied Due Process because the plaintiff was denied a hearing to challenge the charges alleged against him. The court explained that the plaintiff, at a minimum, should have been afforded the charges alleged against him, nature of evidence to be used, opportunity to present a defense, and not to be punished except on the basis of substantial evidence. The court also noted that the plaintiff had a right to cross-examine witness against him and to have an impartial hearing.

Disposition: The court ruled that the plaintiff had been denied Due Process and granted the plaintiff's motion.

Citation: *Graham v. Kuntzen*, 351 F.Supp. 642 (D. Neb. 1972).

Facts: Students brought an action alleging that their suspensions for extended periods of time without any prior notice or fair disciplinary hearing violated their constitutional rights. The plaintiffs brought the suit seeking declaratory relief for extended suspensions on the grounds that the suspensions were exceedingly excessive and unreasonable.

Issue: Did the school administration violate the plaintiff's Due Process rights by conducting an inappropriate hearing regarding the suspensions of the plaintiff's for a prolonged period of time?

Holding: The court held that the multiple months' suspension of the plaintiffs constituted constructive expulsion and violated the plaintiff's Due Process rights without an appropriate hearing.

Reasoning: The court reasoned that the extended suspension of the students constituted a constructive expulsion and therefore did not give the plaintiffs the appropriate standards to

appeal their expulsion. The court stated that the extended period of time greatly limited the students from receiving an education and therefore could not be enforced without appropriate Due Process standards to ensure that the students could challenge the accusations alleged against them.

Disposition: The court ordered that the defendant report in 10 days with an amended procedure for notifying, removing, and disciplining its students to better comply with the court's order.

Citation: *L.Q.A. v Eberhart*, (Ala. Dist. Ct. 1996).

Key Facts: L.Q.A. reportedly was in possession of marijuana. After searching the class area the student was in, a marijuana cigarette, book of papers, and a plastic bag of substance believed to be marijuana was located in the sewing machine cabinet the student was using. The plaintiff, on behalf of his son, brought an action asserting Fourteenth Amendment violations.

Issue: The main issue in this case is whether the search and seizure of the plaintiff was in violation of his Fourteenth Amendment rights?

Holding: The United States District Court upheld the lower court's decision of summary judgment and ruled in favor of the defendants.

Reasoning: The court determined at the time the school officials made their decision to emergency expel the student they had facts that might reasonably have led them to forecast a substantial disruption of or material interference with school activities.

Disposition: The United States Court of Appeals determined that the lower court decision should be sustained and granted summary judgment to the defendant.

Citation: *LaVine v Blaine School Dist.* (Wash. Dist. Ct. App. 2001).

Key Facts: The student wrote a poem titled “Last Words.” The writing indicated potential killing and violence in the school. The plaintiff, on behalf of his son, brought an action asserting violation of his son’s constitutional rights by expelling him and maintaining documentation. The District Court granted the plaintiff’s motion and denied defendant’s motion. The defendant now appealed the District Court’s denial of their motion for summary judgment.

Issue: The main issue in this case was whether the student’s Fourteenth Amendment was violated.

Holding: The United States Court of Appeals reversed the lower court’s decision of summary judgment and ruled in favor of the defendants.

Reasoning: The United States Court of Appeals held that the plaintiff’s rights were not violated because the student was afforded an adequate hearing with the principal. Due to the fact of hostile behavior and foul language, the meeting ended abruptly, but the court determined that the opportunity for due process was provided to the plaintiff.

Disposition: The United States Court of Appeals reversed the lower court’s decision and granted partial summary judgment in favor of the defendant.

Citation: *Keough v Tate County Board of Ed.*, 748 F2d 1077 (Miss. Ct. App. 1984).

Key Facts: During a verbal confrontation with school officials, the student became angry, began using foul language and left school grounds. The student was given the option of a paddling or a 10-day suspension. Due to the fact of the student’s repeated misbehavior, the school board would consider expulsion. The plaintiff, on behalf of his son, brought an action asserting Fourteenth Amendment violations. The District Court granted summary judgment on behalf of the defendants. The plaintiff appealed the District Court’s denial of their motion of summary judgment.

Issue: The main issue in this case is whether the suspension of the student violated the Fourteenth Amendment.

Holding: The United States Court of Appeals upheld the lower court's decision by granting summary judgment in favor of the defendants.

Reasoning: Suspension was based on student's repeated misbehavior in school, his refusal to sit in assigned seat, use of profane language, leaving campus without permission on two occasions, being rude and disobedient, and challenging an administrator to a fight. The student was suspended for 10 days initially, but expelled for remainder of school year by the school board because of the nature and number of prior offenses.

Disposition: The United States Court of Appeals upheld the lower court's decision.

Citation: *Halladay v Wenatchee School District*, 598 F.Supp.2d 1169 (Wash. Dis. Ct. 2009).

Key Facts: A student had a snowball rubbed in his faced during recess, then began to chase the other student yelling, "I'll kill you." The defendant initially emergency expelled the student but reduced it to a 1-day suspension hours later. The plaintiff, on behalf of his son, brought an action asserting a violation of his son's Fourteenth Amendment rights. The District Court denied the plaintiff's claim of a violation of his son's Fourteenth Amendment rights.

Issues: The main issue in the case was whether the student's Due Process rights were violated.

Holdings: The United States District Court upheld the school board's decision to suspend the plaintiff.

Reasoning: The court determined that the plaintiff was not able to establish his constitutional or negligence claims.

Disposition: The United States Court of Appeals upheld the lower court's decision, dismissed the plaintiff's complaint and granted summary judgment to the defendant.

Citation: *Bd. of Education of Rogers v McCluskey*, 102 S.Ct 3469 (Ark. Ct. App. 1982).

Key Facts: The student was suspended for the remainder of the semester for leaving school grounds, drinking alcohol, and then returning to school. The school board voted to expel the student for the remainder of the semester. The District Court reversed the school board's decision on the basis of violating the respondent's right to due process. The plaintiff appealed the District Court's decision.

Issue: Did the school district properly interpret rules of mandatory suspension for "controlled" substances?

Holding: The Supreme Court of Arkansas reversed the all-lower court decision and ruled in favor of the plaintiff.

Reasoning: The court stated that the school board had interpreted as requiring the suspension of students found intoxicated on school grounds for a number of years prior to the respondent's suspension, and is undisputed that the board had the authority to suspend students for that reason. The District Court and Court of Appeals plainly erred in replacing the board's construction of their own notions under the facts of this case.

Disposition: The Supreme Court of Arkansas ruled that the lower courts erred in interpreting local board policy based on *Wood v Strickland* (1975). The court reversed the lower court's decision and ruled in the plaintiff's favor.

Citation: *Craig v Selma City School Bd.*, 801 F.Supp. 585 (Ala. Dis. Ct. 1992).

Key Facts: Two groups of students, the "F group" and "C group," had gotten into an altercation at a football game. Both groups were summoned to school the next morning and

another altercation occurred in the office area. The students were suspended for 5 days without a hearing and then recommended for expulsion by the principal. The District Court granted summary judgment to the defendants and denied to the plaintiffs.

Issue: The main issue in this case was whether the ruling of the school board was a violation of the Fourteenth Amendment?

Holding: The United States District Court upheld the school board's decision and granted summary judgment to the defendants.

Reasoning: The court determined that the students were not given any sort of notice of hearing before their initial 5-day suspension, However, *Goss v Lopez* (1975) stated, "Students whose presence poses a continuing danger to persons or property or an ongoing threat of disrupting process may be immediately removed from school." This situation appears to be that contemplated by the *Goss* court in formulating an exception to the general rule of prior notice.

Disposition: The United States District Court upheld the school board's decision and granted summary judgment to the defendants.

Data Analysis

This study examined the authority of local school boards to expel or suspend a K-12 student. Each case began with a public school student being suspended or expelled and appealing the decision to the court system. The data were extracted from 97 court cases for the purpose of determining case patterns, trends, outcomes, and for the purpose of developing guiding principles for school administrators who might be considering expulsion or suspension of K-12 students as a disciplinary consequence. Court cases from 1970-2012 were analyzed.

Number of Cases

In the timeframe from 1970-1979 there were 23 cases. There were 3 cases during the timeframe from 1980-1989. There were 33 cases between 1990 and 1999. There were 38 cases during the timeframe from 2000-2012. There was a 15% increase of cases from the 1970 era to the 2000 era.

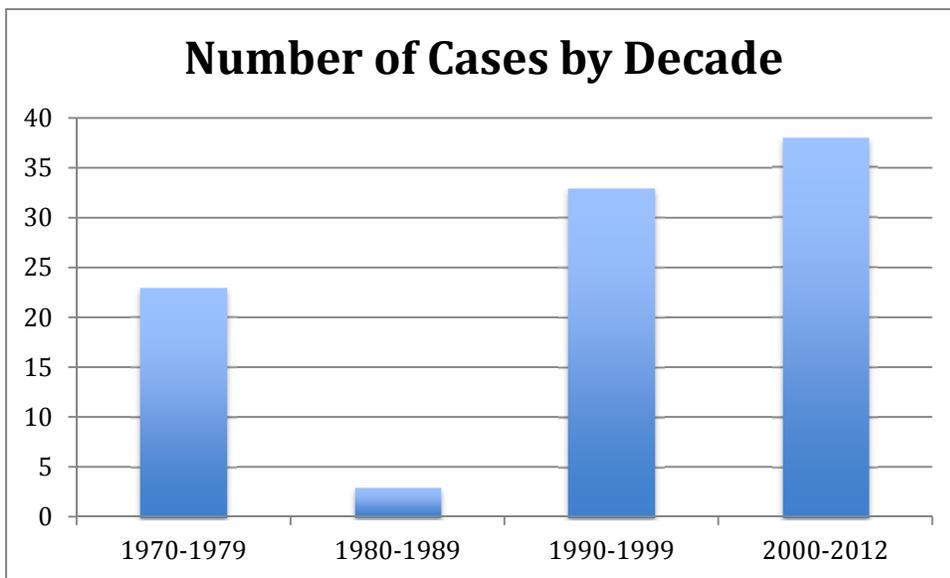


Figure 1. Number of cases by decade.

Table 1

All Cases Researched and Year of Case

Court Cases	Circuit	Ruling	Reason	Outcome	Yr.	Consq.	# Days
<i>Hasson v. Boothby</i> , 318 F.Supp. 1183	1	AFF.	D	D	1970	SUSP.	R.Y.
<i>Bright v. Isenbarger</i> , 314 F.Supp. 1382	7	AFF.	D.P.	D	1970	EXP.	R.Y.
<i>Whitfield v. Simpson</i> , 312 F.Supp. 889	7	AFF.	D.P.	D	1970	EXP.	PERM.
<i>Jackson v. Dorrier</i> , 424 F.2d. 213	6	AFF.	D.P.	D	1970	SUSP.	10
<i>Chaney v. Board of Public Instruction of Alachua County</i> , 231 So.2d 34	11	AFF.	S.S.	D	1970	SUSP.	10
<i>Davis v. Ann Arbor Public Schools</i> , 313 F. Supp. 1217	6	AFF.	D.P.	D	1970	EXP.	1 Sem.
<i>Scoville v. Board of Education Joliet Township High District.</i> , 425 F.2d 10	7	D.C.R.	S.S.	P	1970	EXP.	R.Y.
<i>Hobson v. Bailey</i> , 309 F.Supp. 1393	6	D.C.R.	D.P.	P	1970	EXP.	R.Y.
<i>State v. Baccino</i> , 282 A.2d 869	3	AFF.	D	D	1971	EXP.	PERM.
<i>Farrell v. Joel</i> , 437 F.2d 160	2	AFF.	D.P.	D	1971	SUSP.	10
<i>Texarkana Independent School District v. Lewis</i> , 470 S.W.2d 727	5	AFF.	D.P.	D	1971	EXP.	PERM.
<i>Trahan v. Baudoin</i> , 252 So.2d 740	5	AFF.	V	D	1971	SUSP.	3
<i>Kelley v. Martin</i> , 490 P.2d 836	9	AFF.	D	D	1972	EXP.	PERM.
<i>Dejesus v. Penberthy</i> , 344 F.Supp. 70	1	D.C.R.	D.P.	P	1972	EXP.	R.Y.
<i>Graham v. Kuntzen</i> , 351 F.Supp. 642	8	AFF.	D.P.	P	1972	SUSP.	3
<i>In re G.C.</i> , 296 A.2d 102	3	AFF.	S.S.	D	1972	SUSP.	10
<i>Lopez v Wiliams</i> , 372 F.Supp. 1279	6	C.A.R.	D.P.	P	1973	SUSP.	U.H.
<i>Beckley v. Christopher W.</i> , 105 Cal. Rptr. 775	9	AFF.	S.S.	D	1973	SUSP.	R.Y.
<i>Lee v. Macon County Board of Education</i> , 490 F.2d 458	11	C.A.R.	D.P.	P	1974	EXP.	PERM.
<i>McNaughton v. Circleville Board of Education</i> , 345 N.E.2d 649	6	AFF.	D.P.	D	1974	SUSP.	3
<i>Goss v. Lopez</i> , 95 S.Ct. 729	6	AFF.	D.P.	P	1975	SUSP.	>10
<i>Wood v Strickland</i>	8	U.S.S.C.	D.P.	P	1975	EXP.	PERM.
<i>Sweet v. Childs</i> , 507 F.2d 675	11	AFF	S.S.	D	1975	SUSP.	10

(table continues)

Court Cases	Circuit	Ruling	Reason	Outcome	Yr.	Consq.	# Days
<i>Board of Education Rogers, Arkansas v. McCluskey</i>	8	S.S.C.R.	D.	P	1982	SUSP.	U.H.
<i>Keough v. Tate County Board of Education, 748 F.2d 1077</i>	5	AFF.	D.P.	D	1984	SUSP	10
<i>Dreyfus v Austin Independent School District, 779 F.2d 260</i>	5	AFF.	D.P.	D	1985	EXP.	R.S.
<i>Rohrbaugh v. Elida [Local] Board of Education, 579 N.E.2d 782</i>	6	C.A.R.	D	D	1990	SUSP.	U.H.
<i>Payne v. J.T.N., 568 So.2s 830</i>	11	AFF.	D	D	1990	SUSP.	R.Y.
<i>Carey v. Maine School Administrator District No. 17, 754 R.Supp. 906</i>	1	AFF.	D.P.	D	1990	EXP.	PERM.
<i>Salazar v. E.T., 761 F.Supp. 45</i>	5	AFF.	D	D	1991	EXP.	60
<i>Howard v. Colonial School District, 621 A.2d 362</i>	3	AFF.	D	D	1992	EXP.	PERM.
<i>Craig v Selma City School Board</i>	11	AFF.	D.P.	D	1992	EXP.	PERM.
<i>Martinez v. School District No. 60, 852 P.2d 1275</i>	10	AFF.	S.S.	D	1992	SUSP.	10
<i>Wiemerslagev. Maine Tp. High School District 207, 824 F.Supp. 136</i>	8	AFF.	S.S.	D	1993	SUSP.	3
<i>Engele v. Independent School District</i>	8	AFF.	D.P.	D	1994	SUSP.	10
<i>Hassan v. Lubbock Independent School Dist., 55F.3d 1075</i>	5	C.A.R	D.P.	D	1995	SUSP.	3
<i>Dothan City Board of Education v. V.M.H., 660 So.2d 1328</i>	11	AFF.	S.S.	D	1995	SUSP.	10
<i>Wallace v The Batavia School District</i>	7	AFF.	S.S.	D	1995	SUSP.	3
<i>Ray v. Wilmington , 667 N.E. 2d 39</i>	6	AFF.	V	D	1995	SUSP.	U.H.
<i>James v. Unified School District No. 512, 899 F.Supp. 530</i>	10	AFF.	V	D	1995	EXP.	R.Y.
<i>People v. Dilworth, 661 N.E.2d 310</i>	7	S.S.C.R.	D	P	1996	EXP.	PERM.
<i>Bryd v. Irmo High School, 468 S.E.2d 861</i>	4	AFF.	D	D	1996	SUSP.	10
<i>L.Q.A. v Eberhart</i>	11	AFF.	D.P.	D	1996	EXP.	PERM.
<i>Lovell v Poway Unified School District</i>	9	AFF.	D.P.	D	1996	SUSP.	3
<i>Heller v. Hodgin, 928 F.Supp. 789</i>	8	AFF.	S.S.	D	1996	SUSP	5
<i>Sutton v. Katy Independent School District, 961 S.W.2d 216</i>	5	AFF.	D	D	1997	EXP.	R.Y.

(table continues)

Court Cases	Circuit	Ruling	Reason	Outcome	Yr.	Consq.	# Days
<i>Board of Education of Monticello Central School District v. Comm. Of Education</i>	2	AFF.	D.P.	D	1997	SUSP.	10
<i>Kicklighter v. Evans County School District</i> , 968 F.Supp. 712	11	AFF.	D.P.	D	1997	SUSP.	5
<i>Juvenile Department of Washington County v. Rohlfss</i> , 938 P.2d 768	9	AFF.	S.S	D	1997	SUSP.	10
<i>Spencer v. Omaha Public School District</i> , 566 N.W. 2d 757	8	S.S.C.R.	V	P	1997	EXP.	1 Yr.
<i>Bills v. Homer Consolidated School District</i> , No. 33-C, 967 F.Supp. 1063	7	AFF.	V	D	1997	EXP.	R.Y.
<i>State v. Tinkham</i> , 719 A.2d 580	1	AFF.	D	D	1998	SUSP.	5
<i>Pirschel v. Sorrell</i> , 2 F.supp.2d 930	6	AFF.	D	D	1998	SUSP.	5
<i>M.S. v. Eagle-Union Community School Corporation</i> , 717 N.E.2d 1255	7	AFF.	D.P.	D	1999	SUSP.	1 SEM.
<i>J.T. v. State</i> , 718 N.E.2d 1119	7	C.A.R.	D.P.	P	1999	SUSP.	U.H.
<i>London v. Directors of Dewitt Public Schools</i> , 194 F.3d 873	8	AFF.	D.P.	D	1999	EXP.	R.Y.
<i>Achman v. Chicago Lakes Independent School District</i>	8	AFF.	D.P.	D	1999	SUSP.	10
<i>Jensen v. Reeves</i> , 45 F. Supp. 2d 1265	10	AFF.	S.S.	D	1999	SUSP.	10
<i>Flynn-Scarcella v. Pocono Mountain School District</i> , 745 A.2d 117	3	C.C.R.	D	D	2000	SUSP.	10
<i>Hammock v. Keys</i> , 93 F.Supp.2d 1222	11	AFF	D	D	2000	EXP.	PERM.
<i>Covington County v. G.W.</i> , 767 So.2d 187	5	S.S.C.R.	D	D	2000	EXP.	R.Y.
<i>Riggan v. Midland Independent School District</i> , 86 F.Supp.2d 647	5	AFF.	D.P.	D	2000	SUSP.	3
<i>West v Derby Unified School District No. 260</i> , 206 F,3d 1358	10	AFF.	D.P.	D	2000	SUSP.	3
<i>State v. Crystal B.</i> , 24 P.3d 771	10	C.A.R.	S.S.	P	2000	SUSP.	9
<i>Welfare of G.S.P.</i> , 610 N.W.2d 651	8	C.A.R.	S.S.	P	2000	SUSP.	10
<i>Fuller v. Decatur Public School Board of Education School District 61</i> , 78 F.Supp. 2d 812	7	AFF.	V	D	2000	EXP.	2 Yr.

(table continues)

Court Cases	Circuit	Ruling	Reason	Outcome	Yr.	Consq.	# Days
<i>J.S. v. Bethlehem Area School District</i> , 757 A.2d 412	3	AFF.	V	D	2000	EXP.	PERM.
<i>Butler v. Oak Creek-Franklin School District</i> , 172 F.Supp.2d 1102	7	D.C.R.	D.P.	P	2001	SUSP.	1 YR.
<i>LaVine v Blaine School District</i>	9	C.A.R.	D.P.	D	2001	EXP.	PERM.
<i>Ratner v Loudoun County Public Schools</i>	4	AFF.	D.P.	D	2001	SUSP.	10
<i>Busch v. Omaha Public School District</i> , 623 N.W. 2d 672	8	AFF.	V	D	2001	EXP.	R.S.
<i>Brian v. Stroudsburg Area School District</i> , 141 F.Supp. 2d 502	3	AFF.	V	D	2001	EXP.	R.Y.
<i>Linke v. Northwestern School Corp.</i> , 763 N.E.2d 972	7	AFF.	D	D	2002	EXP.	R.Y.
<i>Johnson v. Collins</i> , 233 F.Supp.2d 241	1	AFF.	D.P.	D	2002	EXP.	R.Y.
<i>In re Pope</i> , 564 S.E. 2d 610	4	AFF.	V	D	2002	SUSP.	U.H.
<i>Daw v. School District 91 Board of Trustees</i> , 41 P.3d 234	9	AFF.	W	D	2002	EXP.	1 Yr
<i>D.T. v. Harter</i> , 844 So.2d 717	11	D.C.R.	D	P	2003	SUSP.	10
<i>Joye v. Hunter Cenral Regional High School Board of Education</i> , 826 A.2d 624	3	C.A.R.	S.S.	D	2003	SUSP.	UND.
<i>Bender v. Exter Township School District</i> , No. 03-5064, 2003 WL 23173723	3	D.C.R.	V	P	2003	SUSP.	3
<i>Porter v. Ascension Parish School Board</i> , 393 F.3d 608	5	AFF.	D.P.	D	2004	SUSP.	10
<i>Wofford v. Evans</i> , 390 F.3d 318	4	AFF.	D.P.	D	2004	EXP.	PERM.
<i>Lopresti v. Galloway Township Middle School</i> , 885 A.2d 962	3	AFF.	S.S.	D	2004	SUSP.	3
<i>Porter v. Ascencion Parish School Board.</i> , 301 F.Supp. 2d 576	5	AFF.	S.S.	D	2004	EXP.	R.Y.
<i>T.M.M. v. Lake Osego School District</i> , 108 P.3d 1211	9	AFF.	D	D	2005	EXP.	1 SEM.
<i>D.O.F. v. Lewisburg Area School District Boardof School Directors</i> , 868 A.2d 28	3	AFF.	D	D	2005	SUSP.	10
<i>Posthumus v. Board of Education of Mona Shores Public Schools</i> , 380 F.Supp.2d 891	6	AFF.	D.P.	D	2005	SUSP.	10
<i>Cohn v. New Paltz Central School District</i> , 363 F.Supp. 2d 421	2	AFF.	S.S.	D	2005	SUSP.	R.Y.

(table continues)

Court Cases	Circuit	Ruling	Reason	Outcome	Yr.	Consq.	# Days
<i>Bravo v. HSU</i> , 404 F.Supp.2d 1195	9	AFF	S.S.	D	2005	EXP.	R.Y.
<i>Taylor v Enumclaw School District No. 216</i>	5	AFF.	D.P.	D	2006	SUSP.	10
<i>Ponce v. Socorro Independent School District</i> , 432 F.Supp. 2d 682	5	AFF.	S.S.	D	2006	SUSP.	3
<i>C.N.H. v. State</i> , 927 So.2d 1	11	AFF.	W	D	2006		U.H.
<i>Haas v. West Shore School District</i> , 915 A.2d 1254	3	AFF.	D	D	2007	EXP.	PERM.
<i>In re N.Y.B.</i> , 750 N.W.2d 318	8	AFF.	D.P.	D	2008	EXP.	1 Yr.
<i>Halladay v Wenatchee School District</i>	9	AFF.	D.P.	D	2008	SUSP	1
<i>Hinds County School District Board of Trustees v. R.B.</i> , 10 S.o3d 387	5	S.S.C.R.	W	D	2009	EXP.	R.Y.
<i>J.S. v. Blue Mountain School District</i> , 593 F.3d 286	3	AFF.	D.P.	D	2010	SUSP.	10

Note. Ruling: C.A.R. = Court of Appeals Reversed; D.C.R. = District Court Reversed; A.C.R. = Appellant Court Reversed; S.S.C.R. = State Supreme Court Reversed; C.C.R. = Commonwealth Court Reversed; AFF. = Affirmed. Outcome: D = Defendant; P = Plaintiff. Discipline: Susp. = Suspension; Exp. = Expulsion. # of Days: R.Y. = Remainder of Year; R.S. = Remainder of Semester; U.H. = Until Hearing; UND. = Undetermined. Reason: D = Drugs; V = Violence; W = Weapons; S.S. = Search and Seizure; D.P. = Due Process.

States

The data revealed cases from 41 states. The Commonwealth of Pennsylvania had the most cases, with 9. Texas and Illinois each had 6 cases, and Indiana had 5 cases. Cases by circuit court of appeals are listed in Table 2.

Table 2

Number of Cases by Geographic Boundaries of United States Courts of Appeals and United States District Courts

Appellate Court	Number of Cases
1st Circuit	5
2nd Circuit	3
3rd Circuit	13
4th Circuit	4
5th Circuit	14
6th Circuit	10
7th Circuit	11
8th Circuit	12
9th Circuit	9
10th Circuit	5
11th Circuit	11

Outcomes of Drugs and Alcohol

The most prevalent group of cases in the research was for illegal drugs and alcohol possession or use. There were 20 out of 97 (21%) cases that occurred in this category. It is important to note that none of the cases researched in this study dealt with the “legal” possession of a drug or illegal substance. It is also important to note that in each case in this study possession or use was the foundation of each case.

Table 3

Cases Related to Drugs or Alcohol

Court Cases	Ruling	Outcome	Reasoning
<i>Hasson v. Boothby</i>	Affirmed	Defendant	Student's prior knowledge of potential punishments
<i>State v. Baccino</i>	Affirmed	Defendant	
<i>Kelley v. Martin</i>	Overruled	Plaintiff	School board did not abuse discretion
<i>Rohrbaugh v. Elida Bd. of Ed.</i>	Overruled	Defendant	Board acted within its established guidelines
<i>Payne v. J.T.N.</i>	Affirmed	Defendant	Appeal mooted because of student's graduation
<i>Salazar v. E.T.</i>	Affirmed	Defendant	Removal for fear of physical harm to student or others
<i>Howard v. Colonial Sch. Dist.</i>	Affirmed	Defendant	Actions were neither arbitrary nor capricious
<i>People v. Dilworth</i>	Overruled	Plaintiff	Board did not establish guidelines in handbook
<i>Bryd v. Irmo High School</i>	Affirmed	Defendant	Law and public policy not appealable to circuit court
<i>Sutton v. Katy Ind. Sch. Dist.</i>	Affirmed	Defendant	Zero tolerance policy
<i>State v. Tinkham</i>	Affirmed	Defendant	Principal not required to give <i>Miranda</i> warnings
<i>Pirschel v. Sorrell</i>	Affirmed	Defendant	Disciplinary policy was constitutionally applied
<i>Flynn-Scarcella v. Pocano Mt. Sch. Dist.</i>	Overruled	Defendant	Actions were neither arbitrary nor capricious
<i>Hammock v. Keys</i>	Affirmed	Defendant	Board's regulations governing discipline for drug possession were not vague
<i>Covington Co. v. G.W.</i>	Overruled	Defendant	Hearsay was admissible in suspension proceedings
<i>Linke v. Northwestern Sch.</i>	Affirmed	Defendant	Policy was reasonable under state and federal constitutions
<i>D.T. v. Harter</i>	Overruled	Plaintiff	School board's interpretation of word "possession"
<i>T.M.M. v. Lake Osego Sch. Dist.</i>	Affirmed	Defendant	Student's inculpatory statements
<i>D.O.F. v. Lewisburg Area Sch. Dist.</i>	Affirmed	Plaintiff	Student not under direct supervision of board
<i>Haas v. West Shore Sch. Dist.</i>	Affirmed	Defendant	Interview by administrators did not apply to written consent
<i>Bd. of Ed. of Rogers Ark. V. McCluskey</i>	Overruled	Plaintiff	Board's definition of drugs- alcohol exempt

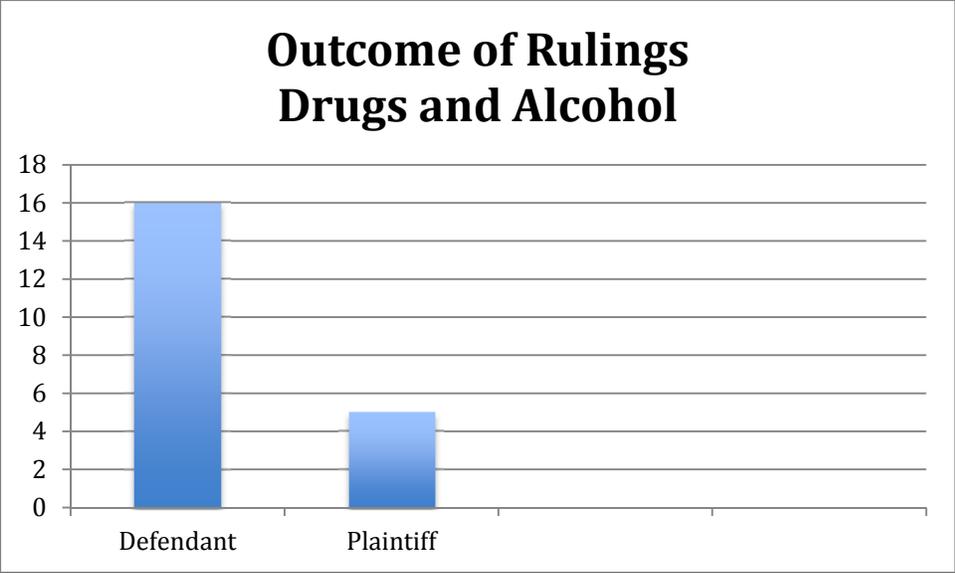


Figure 2. Outcome of cases involving drugs and alcohol.

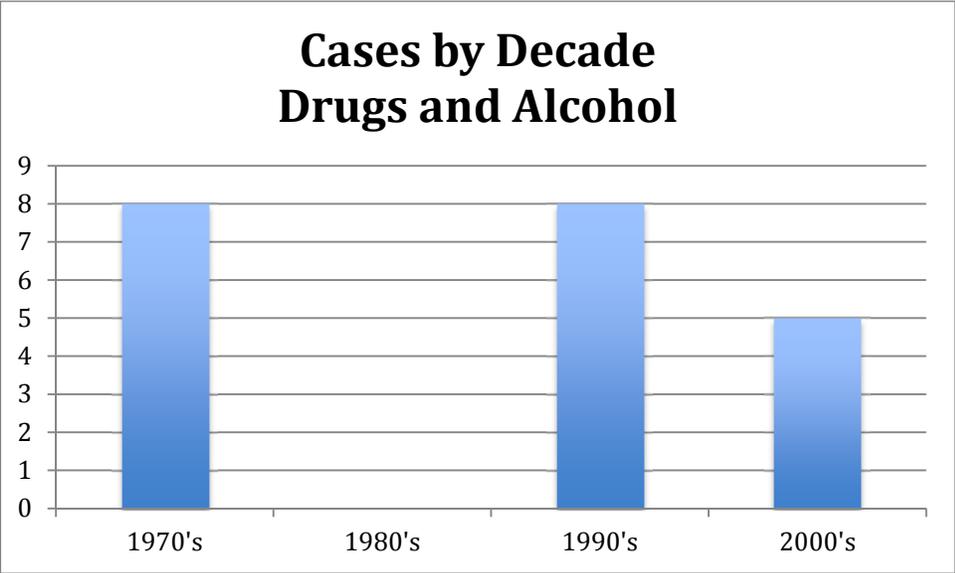


Figure 3. Cases by decade involving drugs and alcohol.

The deciding factor in most cases was the interpretation of local school or school board policy. Clarity and exactness of policy and procedures determined the outcome of the cases. Courts supported schools and school boards when they demonstrated cohesiveness and

consistency within the established rules. It is also important to understand that possession can be either actual or constructive possession. Both are defined by *Black's Law Dictionary* (2005) as follows:

A person who knowingly has direct physical control over a thing, at a given time, is then in actual possession of it. A person who, although not in actual possession, knowingly has both the power and the intention at a given time to exercise dominion or control over a thing, either directly or through another person or persons, is then in constructive possession of it. (p. 1047)

Twenty cases related to illegal drug or alcohol use, 7 cases (33%) were reversed by a higher court. As a result of the court reversals, the defendant benefited in 3 cases, and the plaintiff in 3 cases. In 12 of the 21 cases (57%), court ruling affirmed local board decisions.

In the case of *D.T. v. Harter* (2003), the plaintiff was found to be in possession of marijuana when police discovered it in the plaintiff's car. The plaintiff stated the substance did not belong to him. The school board maintained that the plaintiff did not have to be aware of the substance to be in possession. The school board recommended that the plaintiff be removed from the regular school setting. The school board decision was appealed to the District Court of Appeals and was reversed. The court determined that the term "possession" conflicted with the local board's Code of Conduct. The term possession did not apply to someone who did not have knowledge of the prohibited substance.

In the case of *Hammock v. Keys* (2000), the plaintiff was expelled after school officials had been notified of potential drug activities in the parking lot and after a drug dog had alerted to the plaintiff's car. Initially the student was suspended for 10 days after marijuana residue had been found in the plaintiff's car. Later the student was expelled to alternative school after a hearing was conducted on behalf of the plaintiff's behavior. The plaintiff argued that the school board had violated his Due Process and Equal Protection rights by expelling him after the school

board issued shorter punishments for the same charges against the student. The plaintiff also claimed that the school board's regulations concerning drugs were too vague. The courts determined that adequate notification had been provided to the plaintiff prior to the suspension. The court held that the hearing prior to expulsion fulfilled Due Process. The court also held that the school board's regulations were not vague because they listed expulsion as a possible punishment. The regulation also listed that the principal would define the conduct necessary to establish a violation.

Clearly the cases mentioned in this section were centered on the interpretation of the word "possession." It demonstrates the need for local school and school board policies to be all encompassing. It also demonstrates the court's reluctance to intervene with local school board's decisions as long as they are supported with sound policies.

Due Process

The doctrine of procedural due process evolving from the Fourteenth Amendment necessitates courts to apply a two-part analysis when deliberating allegations of a deficiency of due process. First, the plaintiff must show that student or plaintiff has been denied of a constitutionally-protected interest. Second, "a court must decide whether the procedural regulations connected to that deprivation meet the requirements of due process. The following chart analyzes cases involving due process, the outcome, ruling, and reasoning for the decision. Court cases related to Due Process accounted for 42 of the 97 cases (44%). In 10 of the 42 cases (23%), courts reversed the lower court or local board decisions. In all but 3 of the 10 court cases, the reversal benefited the plaintiff (70%).

Table 4

Cases Related to Due Process

Court Cases	Ruling	Outcome	Reasoning
<i>Bright v. Isenbarger</i>	Affirmed	Defendant	Procedural due process was not violated
<i>Whitfield v. Simpson</i>	Affirmed	Defendant	Statue permitting expulsion does not violate due process clause
<i>Farrell v. Joel</i>	Affirmed	Defendant	Lack of formal hearing did not violate due process
<i>Texarkana Ind. Sch. Dist. v. Lewis</i>	Affirmed	Defendant	Student's not given notice of charges and no time to prepare a defense
<i>DeJesus v. Penberthy</i>	Overruled	Plaintiff	Violation of due process procedures
<i>Graham v. Kuntzen</i>	Affirmed	Plaintiff	School system required to amended procedures for removal of a student
<i>Lopez v. Williams</i>	Overruled	Plaintiff	Violation of due process procedures
<i>Lee v. Macon</i>	Overruled	Plaintiff	Adequate due process not provided
<i>McNaughton v. Circleville Bd. of Ed.</i>	Affirmed	Defendant	Minimal standards for due process met
<i>Goss v. Lopez</i>	Affirmed	Plaintiff	Students entitled to protection under due process
<i>Wood v. Strickland</i>	Overruled	Plaintiff	Second hearing rectified any due process eras from first hearing
<i>Keough v. Tate Co. Bd. of Ed.</i>	Affirmed	Defendant	
<i>Dreyfus v. Austin Ind. Sch. Dist.</i>	Affirmed	Defendant	School policy determined length of suspension
<i>Carey v. Maine Sch. Adm. Dist.</i>	Affirmed	Defendant	Due Process rights not violated
<i>Craig v. Selma City Sch. Bd.</i>	Affirmed	Defendant	Emergency suspension – students presented immediate danger
<i>Engele v. Ind. Sch. Dist.</i>	Affirmed	Defendant	
<i>L.Q.A. v. Eberhart</i>	Affirmed	Defendant	Student failed to establish due process violations
<i>Lovell v. Poway Unified Sch. Dist.</i>	Affirmed	Defendant	Minimal due process requirements were met
<i>Bd. Of Ed. Monticello v. Comm. of Ed. & Herzog</i>	Affirmed	Defendant	Adequate notice was given and student admitting guilt
<i>Kicklighter v. Evans Co. Sch. Dist.</i>	Affirmed	Defendant	Suspension and demand for apology did not violate due process
<i>M.S. v. Eagle-Union Comm. Sch. Corp.</i>	Affirmed	Defendant	Student received adequate protections in due process
<i>J.T. v. State</i>	Overruled	Plaintiff	No proof of intended communication
<i>London v. Dir. Of Dewitt Pub. Sch.</i>	Affirmed	Defendant	Student failed to establish due process violations
<i>Achman v. Chicago Lakes Ind. Sch. Dist.</i>	Affirmed	Defendant	Student manual did not provide basis for suit
<i>Riggan v. Midland Ind. Sch. Dist.</i>	Affirmed	Plaintiff	Three level procedure gave adequate notice

(table continues)

Court Cases	Ruling	Outcome	Reasoning
<i>West v. Derby Unified Sch. Dist.</i>	Affirmed	Defendant	Student informed of charges and provided an opportunity for reply
<i>Butler v. Oak Creek-Franklin Sch. Dist.</i>	Overruled	Plaintiff	Violation of due process procedures
<i>Lavine v. Blaine Sch. Dist.</i>	Overruled	Defendant	Court determined intent was not in particular direction
<i>Ratner v. Loudoun Co. Pub. Sch.</i>	Affirmed	Defendant	Student provided constitutionally sufficient process of notice
<i>Johnson v. Collins</i>	Affirmed	Defendant	Violation of agreed stipulations
<i>Porter v. Ascension Parish Sch. Bd.</i>	Affirmed	Defendant	Lack of formal hearing did not violate due process
<i>Wofford v. Evans</i>	Affirmed	Defendant	Discipline procedures did not require notification of mother
<i>Posthumus v. Bd. of Ed. of Mona Shores Public</i>	Affirmed	Defendant	Student afforded all the procedural process he was due
<i>Taylor v. Enumclaw Sch. Dist.</i>	Affirmed	Defendant	Participation in an extracurricular activity is a privilege
<i>In re N.Y.B.</i>	Affirmed	Defendant	Not providing low-cost counsel did not violate due process
<i>J.S. v. Blue Mt. Sch. Dist.</i>	Affirmed	Defendant	School's discipline policy was not unconstitutionally overbroad
<i>Hassan v. Lubbock Ind. Sch. Dist.</i>	Overruled	Defendant	School provided procedural due process
<i>Jackson v. Dorrier</i>	Affirmed	Defendant	Hearing provided before and after suspension
<i>Davis v. Ann Arbor Pub. Sch.</i>	Affirmed	Defendant	Due process procedure can vary
<i>Hobson v. Bailey</i>	Overruled	Plaintiff	Did not meet minimum standards for due process
<i>Halladay v. Wenatchee Sch. Dist.</i>	Affirmed	Defendant	School provided procedural due process
<i>Hamilton v. Unionville-Chadds Ford Sch. Dist.</i>	Overruled	Defendant	School/District student disc. Code were <i>in pari manteria</i> – given proper notice

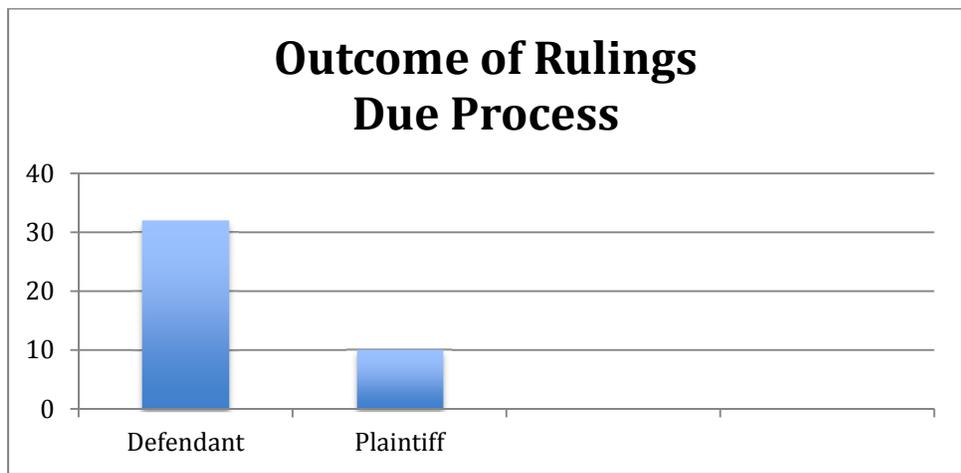


Figure 4. Outcome of rulings involving due process.

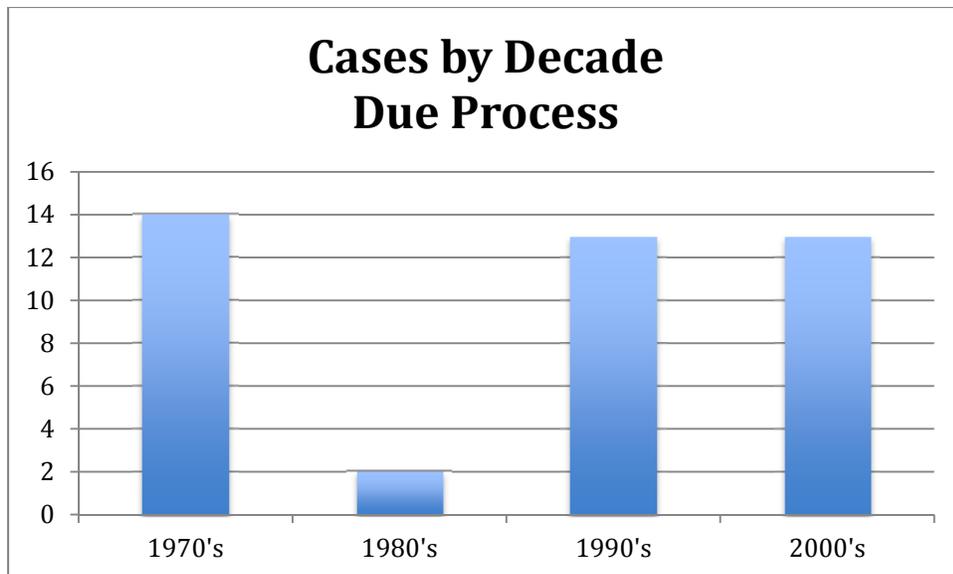


Figure 5. Cases by decade involving due process.

As a case increases in discipline severity, it necessitates a more stringent level of due process requirements. The court reluctantly involves itself in a school board decision, unless a clear violation of the Fourteenth Amendment occurred. *Black's Law Digest* (2005) defines Due Process as follows:

The right of the person affected thereby to be present before the tribunal which pronounces judgment upon the question of life, liberty, or property, in its most comprehensive sense; to be heard, by testimony or otherwise, and to have the right to controverting, by proof, every material fact which bears on the question of right in the matter involved. (p. 449)

In cases of clear misconduct by the plaintiff or defendant, the court interprets the law as written.

In the 36 cases researched, the courts supported a school board that displayed a consistent method or procedure relating to due process.

In the landmark case *Goss v. Lopez* (1975), several Ohio high school students, who had been suspended for misbehavior for up to 10 days, filed a class action lawsuit against school officials seeking a declaration that the Ohio statute permitting such suspensions was

unconstitutional. A three-judge district court determined that the students were denied due process of the law, because they were suspended without a hearing prior to suspension or within a reasonable time thereafter. Students encountering temporary suspension from a public school have a property and liberty interest that qualifies for protection under the Fourteenth Amendment's Due Process Clause. Due process requires that a student be provided oral or written notice of the charges against him, an explanation of the evidence against him, and an opportunity to present his account. The court also determined that all residents were eligible for constitutional protections regarding public education because state statutes required local authorities to provide a free education.

In the case of *Farrell v. Joel* (1971), several Connecticut high school students were suspended for 15 days as a result of a student demonstration. Judge Blumenfeld defined the student demonstration as a "sit-down." The purpose of the demonstration was to protest the suspension of three fellow classmates. As the protest continued, the assistant principal and principal requested that the students return to class. The principal agreed to an assembly with all students to hopefully defuse the situation. Elected student representatives and appellants presented the matter to the local board during an open session. The board adjourned and voted in a closed (executive) session to suspend several students for 15 days. As a result of the appellant's complaint, the district court issued a temporary injunction against the suspension. The complaint charged that the opportunity for due process was not afforded to her and the other students. The order was continued by agreement of the parties and the appellant was suspended for only 10 school days. In essence, the court denied the plaintiff's complaint and affirmed the suspension.

Due Process can be defined or determined in a variety of ways. In *Posthumus v. Board of Education Mona Shores Public Schools* (2005), the courts determined that a student's refusal to

respond to charges became his due process. During the meeting, the student became agitated, used foul language, and was extremely insulting. The student refused to continue the meeting and stormed out of the room and left. The principal informed the mother of the 10-day suspension and the prohibition against the student to participate in any senior activities during that timeframe. The parent appealed the decision to the local board and 2 days later the board affirmed the school's decision without affording the student a hearing or the opportunity to present evidence. The district court determined that the opportunity to present evidence and respond to charges was provided to the student in the administrator's office, but the student chose to behave in an inappropriate manner and left the office on his own accord.

The importance of appropriate due process is evident in all 36 cases researched in this section. The issue in each case was if "adequate" due process opportunities had taken place. Local school boards that followed established and properly defined policies were upheld in the courts.

In the case of *Hamilton v. Unionville-Chadds Ford School District* (1998), a student was expelled for multiple level "F" offenses. The Court of Appeals reversed a lower court's decision and ruled in favor of the defendant. The Court determined that both district and school codes of conduct were designed to complement each other and subsequently the appellee student received adequate notice of the hearing prior to expulsion, and the appellee received adequate due process and notice.

Search and Seizure

The Fourth Amendment protects every citizen’s right to be free from unreasonable government intrusion in his or her body, house and property--whether in public, or at home, work, or school. The following table breaks each case as to the ruling, outcome, and reasoning found by the courts. Court cases related to Search and Seizure accounted for 20 of the 97 cases (21%). In 4 of the 20 cases (20%), courts reversed lower court or local board decisions. Three of the seven cases were decided in favor of the plaintiff.

Table 5

Cases Related to Search and Seizure

Court Cases	Ruling	Outcome	Reasoning
<i>Channey v. Bd. of Pub. Inst. Of Alachua County.</i>	Affirmed	Defendant	Student refused to comply
<i>Scoville v. Bd. of Ed. Joliet Township High Dist.</i>	Overruled	Plaintiff	Applied authority unconstitutionally
<i>In re G.C.</i>	Affirmed	Defendant	Search was reasonable
<i>Beckley v. Christopher W.</i>	Affirmed	Defendant	Duty fell within school personnel responsibility
<i>Sweet v. Childs</i>	Affirmed	Defendant	Officials entitled to judgment as a matter of law
<i>Martinez v. Sch. Dist. No. 60</i>	Affirmed	Defendant	Search was reasonable
<i>Wiemerslage v. Maint Tp. High Sch. Dist.</i>	Affirmed	Defendant	Rule was not unconstitutionally vague
<i>Dothan Cty. Bd. of Ed. v. V.M.H.</i>	Affirmed	Defendant	Code of conduct vague in wording
<i>Wallace v. Batavia Sch. Dist.</i>	Affirmed	Defendant	Search was reasonable
<i>Heller v. Hodgin</i>	Affirmed	Defendant	Student not denied equal protection
<i>Jensen v. Reeves</i>	Affirmed	Defendant	Questioning in front of classmates did not violate law
<i>State v. Crystal</i>	Overruled	Plaintiff	A.P. violated statutory authority by searching off campus
<i>Welfare of G.S.P.</i>	Overruled	Plaintiff	Student determined to be in custody – search reasonable
<i>Joye v. Hunter Central Reg. High Sch. Bd.</i>	Overruled	Defendant	Reasonable for sch. dist. to enact drug testing policy due to drug epidemic
<i>Lopresti v. Galloway Township M.S.</i>	Affirmed	Defendant	Policy did not violate Fourteenth Amend.

(table continues)

Court Cases	Ruling	Outcome	Reasoning
<i>Porter v. Ascencion Parish Sch. Bd.</i>	Affirmed	Defendant	Search was reasonable
<i>Cohn v. New Paltz Central Sch. Dist.</i>	Affirmed	Defendant	Qualified immunity for school official
<i>Bravo v. H.S.U.</i>	Affirmed	Defendant	Search was reasonable
<i>Ponce v. Socorro Ind. Sch. Dist.</i>	Affirmed	Defendant	Search was reasonable
<i>Juvenile Dept. of Wash. Co. v. Rohliffs</i>	Affirmed	Defendant	Reasonable suspicion existed

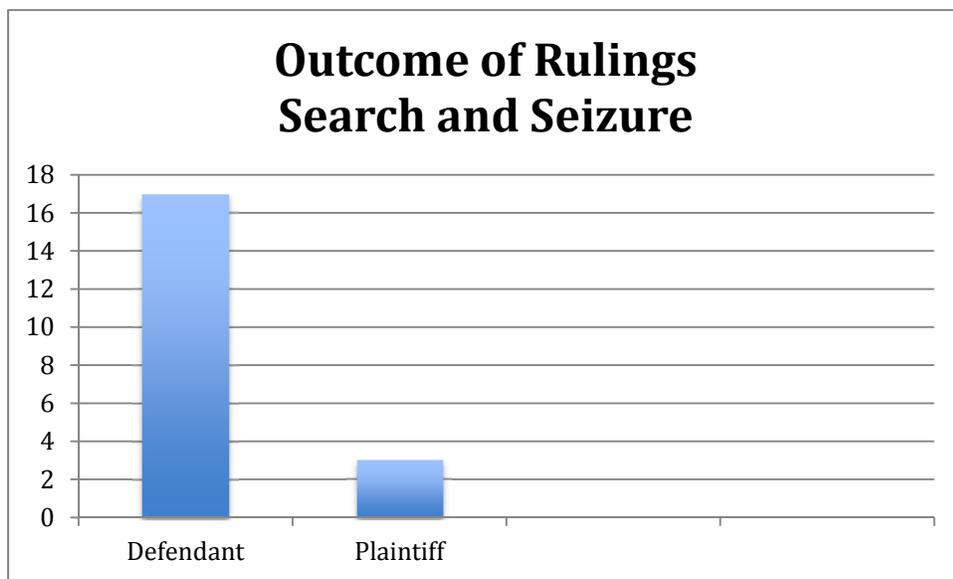


Figure 6. Outcome of rulings involving search and seizure.

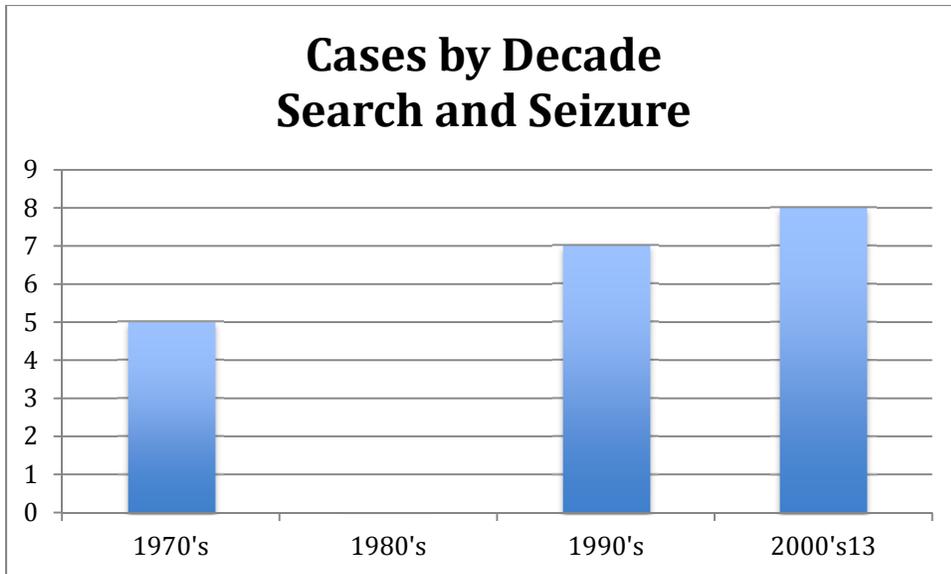


Figure 7. Cases by decade involving search and seizure.

The courts showed overwhelming support for the schools when a search was deemed reasonable and also demonstrated that school officials are granted a greater amount of freedom because of the school environment. Schools appeared to be given a tremendous amount of flexibility in the disciplining process, because the courts rarely intervened in the length of the suspension or expulsion. In the cases dealing with expulsion, schools usually expelled a student for the remainder of the year, but there was not a defining trend in cases dealing with suspension; therefore, schools typically operated within local board policies.

Table 6

Court Cases Sustaining Reasonable Searches

Court Cases	Ruling	Outcome	Year
<i>In re G.C.</i>	Affirmed	Defendant	Search was reasonable
<i>Martinez v. Sch. Dist. No. 60</i>	Affirmed	Defendant	Search was reasonable
<i>Wallace v. Batavia Sch. Dist.</i>	Affirmed	Defendant	Search was reasonable
<i>Welfare of G.S.P.</i>	Overruled	Plaintiff	Student determined to be in custody-search reasonable
<i>Porter v. Ascencion Parish Sch. Bd.</i>	Affirmed	Defendant	Search was reasonable
<i>Bravo v. H.S.U.</i>	Affirmed	Defendant	Search was reasonable
<i>Ponce v. Socorro Ind. Sch. Dist.</i>	Affirmed	Defendant	Search was reasonable
<i>Juvenile Dept. of Wash. Co. v. Rohliffs</i>	Affirmed	Defendant	Reasonable suspicion existed

In *Beckley v. Christopher W.* (1973), the student alleged that the opening of a locker in which marijuana was found violated the student’s Fourth Amendment rights. The Court deemed it reasonable that administrators of the school used a master key to open a locker to verify a student’s report of drugs. Preventing the use of marijuana is well within the duties of school officials; therefore, the search of the locker and the seizure of the contents was reasonable. Also, high school officials are not government officials as it relates to the constitutional rules regulating police conduct. In this case, the search was two-pronged. First, the search was within the scope of the school official’s duties. Second, the action taken, the search, was reasonable under the facts and circumstances of the case. The student was expelled for the remainder of the school year.

The District Court in *Bravo v. HSU* (2005) held that the search of a middle school student’s backpack, pockets, and shoes for drugs was reasonable under the Fourth Amendment. The student was brought to the assistant principal’s office based on a report from another student that the student may be in possession of drugs, the bathroom attendant had to remove the student

from the restroom after a commotion, and the assistant principal's observations. Through a series of conferences, the student admitted to possessing a "baggie" of marijuana. The search of the student was justified at its inception. It is justified at its inception when there are reasonable grounds for suspecting that a search will show that a student has violated or is violating either the law or school rules. The student was expelled for the remainder of the school year.

Understanding the boundaries in which a school official can operate without violating a student's Fourth Amendment is imperative. School officials operate under "qualified immunity" in most cases, but school officials must realize that a student does not shed his Fourth Amendment rights in a school setting. Once again, the courts are reluctant to involve itself in a school's business, but violating the Fourth Amendment is not permissible.

Black's Law Dictionary (2005) defines search as follows:

An examination of a man's house or other buildings or premises, or of his person, or of his vehicle, aircraft, etc., with a view to the discovery of contraband or illicit or stolen property, or some evidence of guilt to be used in the prosecution of a criminal action for some crime or offense with which he is charged. (p. 1211)

Seizure is defined as, "the act of taking possession of property, *e.g.*, for a violation of law or by virtue of an execution. The term implies a taking or removal of something from the possession, actual or constructive, or another person or persons" (p.1219).

Although not directly related to out-of-school suspension or expulsion, a ruling in *New Jersey v. T.L.O.* (1985) helped clarify grounds for a legal search and seizure. The New Jersey Supreme Court reversed a lower court's decision concerning suppression of evidence and limits of a legal search and seizure. The opinion of the Court held:

1. The Fourth Amendment's prohibition on unreasonable searches and seizures applies to searches conducted by public school officials, and is not limited to searches carried out by law enforcement officers. Nor are school officials exempt from the Amendment's dictates by virtue of the special nature of their authority over schoolchildren. In carrying out searches and other functions pursuant to disciplinary policies mandated by state

statutes, school officials act as representatives of the State, not merely as surrogates for the parents of students, and they cannot claim the parents immunity from the Fourth Amendment's strictures. (p. 333-337)

2. Schoolchildren have legitimate expectations of privacy. They may find it necessary to carry with them a variety of legitimate, non-contraband items, and there is no reason to conclude that they have necessarily waived all rights to privacy in such items by bringing them onto school grounds. But striking the balance between schoolchildren's legitimate expectations of privacy and the school's equally legitimate need to maintain an environment in which learning can take place requires some easing of the restrictions to which searches by public authorities are ordinarily subject. Thus, school officials need not obtain a warrant before searching a student who is under their authority. Moreover, school officials need not be held subject to the requirement that searches be based on probable cause to believe that the subject of the search has violated or is violating the law. Rather, the legality of a search of a student should depend simply on the reasonableness, under all the circumstances, of the search. Determining the reasonableness of any search involves a determination of whether the search was justified at its inception and whether, as conducted, it was reasonably related in scope to the circumstances that justified the interference in the first place. Under ordinary circumstances, the search of a student by a school official will be justified at its inception where there are reasonable grounds for suspecting that the search will turn up evidence that the student has violated or is violating either the law or the rules of the school. And such a search will be permissible in its scope when the measures adopted are reasonably related to the objectives of the search, and not excessively intrusive in light of the student's age and sex and the nature of the infraction. (pp. 337-343)

3. Under the above standard, the search in this case was not unreasonable for Fourth Amendment purposes. First, the initial search for cigarettes was reasonable. The report to the Assistant Vice Principal that respondent had been smoking warranted a reasonable suspicion that she had cigarettes in her purse, and thus the search was justified despite the fact that the cigarettes, if found, would constitute "mere evidence" of a violation of the no-smoking rule. Second, the discovery of the rolling papers then gave rise to a reasonable suspicion that respondent was carrying marihuana as well as cigarettes in her purse, and this suspicion justified the further exploration that turned up more evidence of drug-related activities. (pp. 343-347)

The importance of *T.L.O.* (1985) is apparent in the cases used in this section. Legal searches are based on reasonableness. This landmark case does not give a school official free reign, but it does lessen the restriction placed on other officials.

Fourth Amendment violations have been challenged in the courts. As the issues in society creep into schools, the need for searches and seizures will increase. A major issue facing local

school boards and the court system is defining the role of school resource officers. Are they operating in the role of a school official or police officer? Defining and understanding the role of each individual is essential in maintaining a learning environment for students, faculty, and staff.

Violence

Of the 97 cases researched in this study, 11 (11%) dealt with expulsion or out-of-school suspension related to acts of violence. Eight of the 11 (73%) cases affirmed the local board's decision, but 3 of the 11 (27%) resulted in a court's reversal, two favoring the plaintiff and the other the defendant.

Table 7

Cases Related to Violence

Court Cases	Ruling	Outcome	Reasoning
<i>Trahan v. Baudoin</i>	Affirmed	Defendant	
<i>Ray v. Wilmington</i>	Affirmed	Defendant	Disciplinary action did not abuse school's discretion
<i>James v. Unified Sch. Dist. No. 512</i>	Affirmed	Defendant	Expulsion process comported with due process requirements
<i>Spencer v. Omaha Pub. Sch. Dist.</i>	Overruled	Defendant	Punishment lies within statutory guidelines, as a matter of policy
<i>Bills v. Homer Con. Sch. Dist.</i>	Overruled	Plaintiff	School resource officer operated outside the role of a school official
<i>Fuller v. Decatur Pub. Sch. Bd. of Ed.</i>	Affirmed	Defendant	Expulsion wasn't a result of zero tolerance policy
<i>J.S. v. Bethlehem Area Sch. Dist.</i>	Affirmed	Defendant	No expectation of privacy of website
<i>Busch v. Omaha Pub. Sch. Dist.</i>	Affirmed	Defendant	District's rule was sufficiently clear and definite
<i>Brian v. Stroudsburg Area Sch. Dist.</i>	Affirmed	Defendant	District has rationale reason for suspension
<i>In re Pope</i>	Affirmed	Defendant	Student deemed immediate threat
<i>Bender v. Exter Township Sch. Dist.</i>	Overruled	Plaintiff	School violated terms of agreement with student

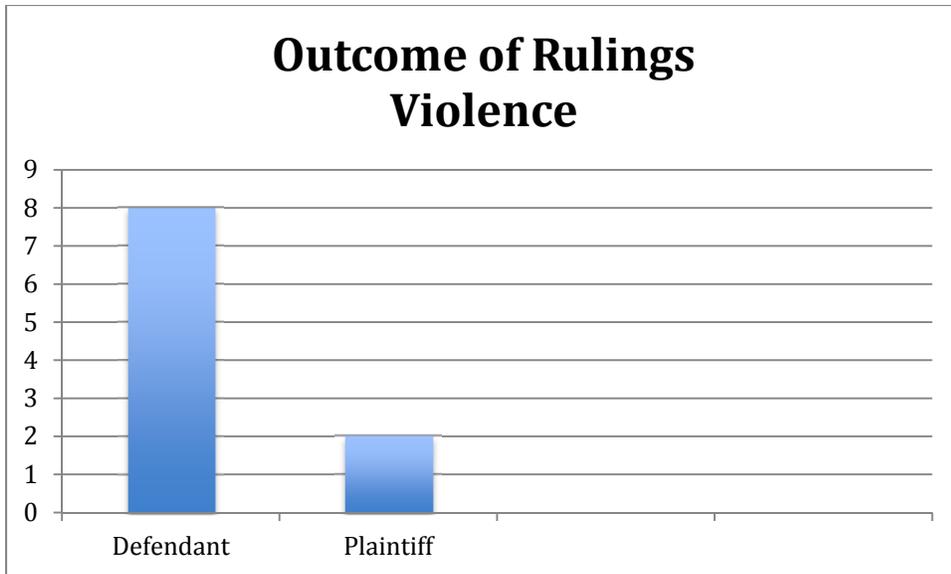


Figure 8. Outcome of rulings involving violence.

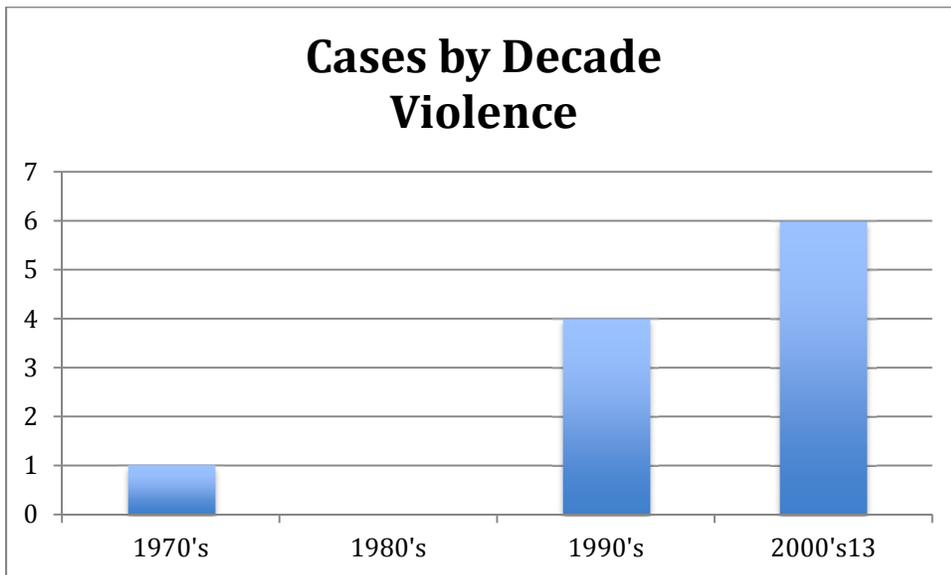


Figure 9. Cases by decade involving violence.

The extent of discipline measures must not exceed the extent of the action. In cases where school boards operated within guidelines that were established and where consistency was evident, the courts upheld the school board's decision. Although *Black's Law Dictionary* (2005)

defines violence as, “unjust or unwarranted exercise of force usually with the accompaniment of vehemence, outrage or fury” (p. 1408), interpreting that properly requires a school board to be diligent and precise in its wording policies and implementing procedures.

In re Pope (2002) was a case in which a student was suspended for hitting and scratching an administrator multiple times. The student was asked to accompany the principal to the office and the student refused. The principal had to physically pick up the student to prevent the student from leaving. The state filed a petition that the student committed assault and that matter was decided by the courts. The decision was based on the fact that the student had no reason to attack the principal. The student was not in danger therefore the student could not justify lashing out at the principal.

A case that resulted in a district court’s reversal was *Bills v. Homer Consolidated School District* (1997). An elementary school student was expelled after he confessed his connection to a school fire to a police officer. The court determined that the officer was in violation of the student’s Fourth Amendment rights and reversed the decision in favor of the plaintiff student. All other allegations failed, but violating a student’s Fourth Amendment rights suppressed all information provided to the officer. As a result of the court’s decision, the student’s expulsion was reversed.

A student in *Spencer v. Omaha Public School District* (1997) appealed his two-semester expulsion. The student held a metal fork to another student’s neck resulting in red marks being left. The district court reduced the student’s two-semester expulsion to one semester. The school board appealed that decision and the Nebraska Supreme Court held that the school board had exceeded authorization of the Student Discipline Act. Reasoning for the ruling was based on intent to hurt. In this case, the student’s actions were not intended to engage in conduct that

caused harm; therefore, there was no intent in the student’s conduct to support the disciplinary consequences.

Although 82% of the cases were upheld by the courts, school systems that explicitly define terminology like violence experience a greater likelihood of being supported by the courts. Once again, the action must justify the discipline.

Weapons

Of the 97 cases, 3 (3%) occurred as a result of the existence of a weapon. In 2 of the cases, courts affirmed the local board decision. The only cases that resulted in a reversal of a lower court’s decision favored the defendant.

Table 8

Cases Related to Weapons

Court Cases	Ruling	Outcome	Reasoning
<i>DAW v. Sch. Dist. 91</i>	Affirmed	Defendant	District court dismissed petition
<i>C.N.H. v State</i>	Affirmed	Defendant	Search for weapon was proper
<i>Hinds Co. Sch. Dist. v. R.B.</i>	Overruled	Defendant	Notification for suspension sent after hearing date

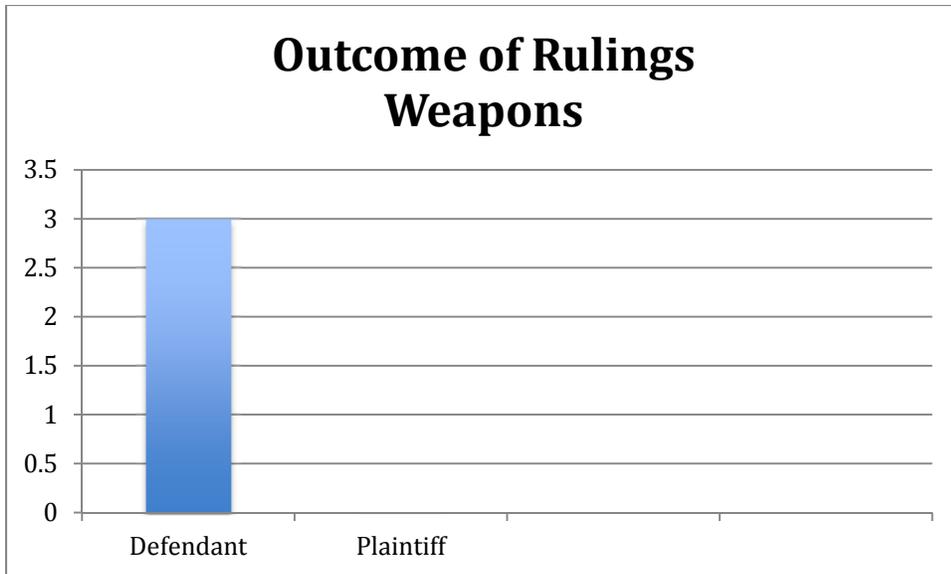


Figure 10. Outcome of rulings involving weapons.

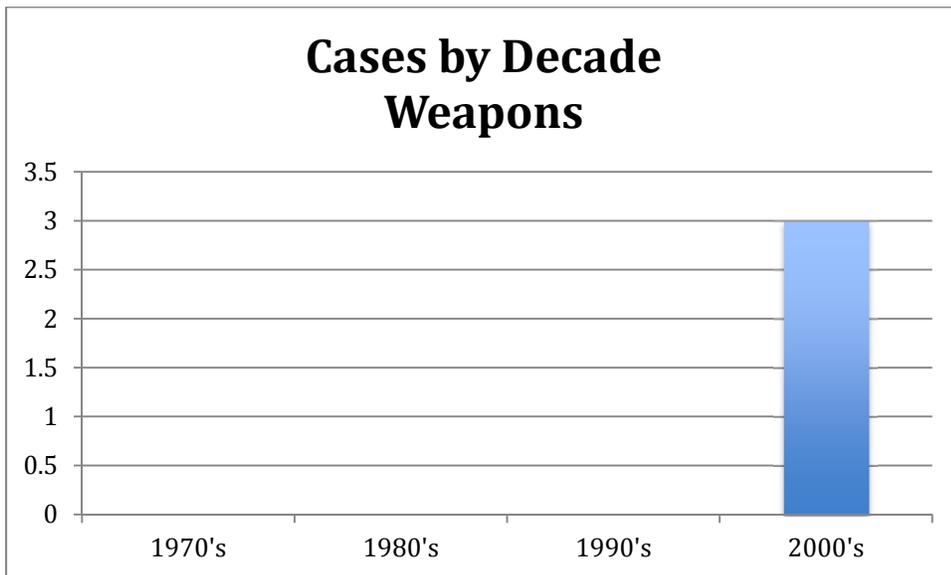


Figure 11. Cases by decade involving weapons.

In the 3 cases involving a weapon, the courts ruled in favor to the school system. In each case the system defined a weapon in its policies and explained the steps for discipline. *Black's*

Law Dictionary (2005) defines a weapon as, “an instrument of offensive or defensive combat, or anything used, or designed to be used, in destroying, defeating or injuring a person” (p. 1429).

The schools operated within the established guidelines and each was affirmed in the judicial process.

The Supreme Court of Mississippi reversed the decision of the Court of Appeals and the Chancery Court for the First Judicial District of Hinds County in *Hinds County School District Board of Trustees v. R.B.* (2009). A student at Byram Middle School was expelled from the school as a result of what was deemed a knife--in violation of Mississippi Code of Conduct and school policy. The student’s parent appealed the local decision for expulsion from Byram Middle School and the case ultimately was argued in front of the Mississippi Supreme Court. The decision by the court to reverse the lower court decision was based on the fact that the local superintendent had the authority to determine if the instrument could be deemed a weapon, but the local board itself made the ultimate determination. Mississippi Code Annotated Section 37-7-301 (e) grants school boards the power to suspend and expel “when such conduct by a pupil, in the determination of the school superintendent or principal, renders that pupil’s presence in the classroom a disruption” or “a detriment to the best interest and welfare of the pupils.” Simply stated, in this case the school board was acting within their statutory authority to delegate such findings of fact in disciplinary matters.

In *C.N.H. v. State of Florida* (2006), a student assigned to alternative middle school was found in possession of a knife after a pat-down. Due to the nature of the charges and the potential range of punishment, including suspension and expulsion, the student attempted to have the information suppressed. The student claimed that the search was in violation of her Fourth Amendment rights and no reasonable suspicion was present. The Fourth Amendment only

applies where the object of the search is to punish, which is not the case with an administrative search. Furthermore, administrative searches differ from traditional criminal searches. With an administrative search, the probable cause or warrant is replaced by the requirement to show a neutral plan for execution; a persuasive governmental need, the absence of less restrictive alternatives; and lessened privacy rights. The District Court affirmed the school board's decision to discipline appropriately.

School officials are under more scrutiny than ever. Because of that, it is vital that officials understand their role and the authority that lies within it. Understanding local, state and federal laws and how they apply to each situation increases the likelihood of avoiding legal action. School board actions must be clear, consistent, and fair.

Issue Statements Identified in This Case Study

There were eight guiding principles that developed from the research in the cases in this study. The themes mirror legal standards related to out-of-school suspension and expulsion in the K-12 setting. Each principle is listed and discussed in detail.

1. If a student was suspended or expelled for a violation that required a search to be performed and the school received consent to execute the search, the courts reviewed the school's ruling (*In re G.C.*, 1972), and ruled in favor of the school. The student in this case was searched, upon consent, and methamphetamine tablets were found in her possession. The court determined that the student had not suffered a violation of her Fourth Amendment rights because the principal had the duty to protect other students, he had reasonable suspicion, and the student gave consent.

Parallel cases in this study resulted in the same outcome. As long as the school or school board can prove that consent was given, the courts will not question the decision.

2. Schools have an obligation to protect all students under its care. An overwhelming number of cases indicate support for schools where a school environment was in danger or threat. The courts provided the schools with a great deal of leeway when defining danger or threat. The cases focusing on protection of students encompassed areas such as, drugs, weapons and student behavior. If the decision is to expel a student for weapons possession (*James v. Unified School District*, 1995), the courts explained that the necessity of the school's interest regarding weapons on school property was reasonable under the circumstances. The school had an obligation to protect other students.

Interestingly, it was determined that a school may remove a student temporarily for his own personal safety (*Engle v. Independent School District*, 1994). Other students, in the form of racist names, had picked on the student in question. A student was tragically killed in a car wreck and the plaintiff's laughter was misinterpreted as approval of the student's death. After attempting to resolve the situation, the school decided to suspend the plaintiff for the remainder of the year for his protection. The courts reasoned that the school had considered all other options and the suspension was in the best interest of the student's safety.

As long as the school can show that the protection of students was the intent of their action, the courts consistently ruled in favor of the school.

3. Any school sponsored activity falls within the school's disciplinary authority (*Pirschel v Sorrell*, 1998). A student was suspended for possessing alcohol at an away basketball game. The court reasoned that because the school had scheduled and funded the event, it had the

educational interest in preventing the consumption of alcohol. Therefore, the suspension was related to the school's disciplinary code and should be enforced as such.

Courts ruled in favor of the schools in related cases dealing with drugs and disruptive students. The courts demonstrated support in cases that it concluded that the punishment was related, consistent, and reasonable.

4. It is the responsibility of school officials to provide sufficient notice of a disciplinary hearing (*Covington County v G.W.*, 2000). The court reasoned that the student's Due Process rights had not been violated simply because the student had been informed of his hearing by the superintendent rather than the school board's attorney. Typically, school administration notifies the parent or guardian of an upcoming hearing (*Hammock v Keys*, 2000). The court reasoned that the student had received notification prior to her hearing from school administration.

A student was suspended for a school violation, and then attended another event in which he was suspended indefinitely without notification (*Hobson v Bailey*, 1970). The court ruled that in order to receive appropriate notification regarding Due Process, a person must be given a chance to dispute the accusations.

Although each case was unique, courts never clearly defined a timeframe for sufficient notice. It has been determined by this researcher that it must take place within 10 days of the suspension. The landmark case *Goss v. Lopez* (1975) limited the number of days that a student could be suspended and stated that the student must be notified of the charges against him and be allowed to defend himself against the accusations.

5. In cases where a student admits to the violation, the courts will make sure the actions taken by the school were administered properly (*Porter v Ascension Parker School Board*, 1995). The court explained that because the student had waived any right to a hearing as well as

admitting to the allegations, the school clearly operated within its authority. In an initiation incident (*McNaughton v Circleville Board of Education*, 1974), students were suspended for hazing another student into a school club. The students admitted to their wrongdoing and knew that such actions would lead to a suspension. The court explained that the students admitted their actions and understood the consequences of their action before the incident.

6. There is a direct relationship between a legal search and the history of the offender (*State v. Schloegel*, 2009). The court stated that the school administration had the authority to investigate possible disciplinary violations that may affect other students. Additionally, the court explained that the search conducted by the school administration was reasonable under the circumstances, because the defendant had a past dealing with drugs. A teacher's suspicion of a student's behavior and the history of the student warranted a search (*Juvenile Department of Washington County v. Rohlfss*, 1997). The court determined that the teacher had conducted a legal search based on reasonable suspicion and the student had a history of a drug problem.

7. In cases where an outside source was used for information related to a violation, the courts reasoned that a legal search could be performed based on an informant (*Wofford v. Evans*, 2004). Fellow classmates accused the plaintiff of having a gun, and school administration along with police officers questioned the student and seized the plaintiff and weapon. The court noted that the school administration had an important obligation to perform their duties and prevent weapons from entering school grounds.

School administration has the authority to investigate possible disciplinary infractions that might affect other students (*State v. Schloegel*, 2009). The courts reasoned that the search conducted by the school administration was reasonable under the circumstances because of the

defendant's past history and information provided by another student. The information provided by another student was deemed credible.

8. Although Due Process does not warrant a specific type of procedure, it provides an opportunity for the accused to respond to accusations and allegations (*Goss v. Lopez*, 1975). After being involved in a cafeteria protest, students challenged their suspension claiming they were not allowed to review their suspension within a reasonable amount of time. The courts determined that the students were entitled to Fourteenth Amendment protection. The court concluded that the students facing expulsion must be given the opportunity to be heard and challenge any charges alleged against them. Students do not shed their constitutional protections at the school door.

Due Process must meet a certain degree when deciding disciplinary issues (*Lee v. Macon County Board of Education*, 1974). A school board based its disciplinary decision solely on the testimony of one individual. The court reasoned that the school board had a duty to employ a legal standard that was not based on the judgment of one individual. The court explained that the school board owed the student a higher degree of Due Process.

CHAPTER 5

SUMMARY, CONCLUSIONS, AND RECOMMENDATIONS

Introduction

The purpose of this study was to research and analyze cases involving out-of-school suspension and expulsion in public K-12 schools. Through this research, I established patterns, outcomes, and court case trends. The time period of 1970-2012 was used in this research to provide a sufficient size of court cases to determine patterns, trends, and outcomes. I briefed 97 court cases to answer the research questions.

This chapter includes the research summary as it relates to the questions, a conclusion based upon the analysis of data gathered from the court cases, and recommendations for future study.

Summary

The following research questions guided the collection and analysis of data:

1. What are the issues in court cases on the authority of school officials in out-of-school suspension or expulsion during the timeframe of 1970 to 2012?

The research analyzed in this study categorized out-of-school suspension and expulsion into five groups. The groups covered drugs and alcohol, due process, weapons, search and seizure, and violence. Most of the cases related to out-of-school suspension and expulsion were dependent upon the facts of each individual case. Actions by school officials or school boards in the cases briefed entailed the following: suspension, expulsion (permanent or designated

timeframe). The court delivered decisions in 97 cases and reversed or overturned a lower court's decision on 22 occasions. In of these cases, the plaintiffs argued the actions taken against them for several reasons. The reasons included guidelines were not clearly established in the school board handbook, school board's language was not clear, definition of violation was not precise and clear, violation of due process procedures, violation of *Miranda* warning, and violation of student/school contract. In the principles section of this chapter, it is imperative that administrators familiarize themselves with court cases and trends that support the efforts of controlling the school environment and establishing a strong, positive learning environment.

2. What are the outcomes in court cases on the authority of school officials in out-of-school suspension or expulsion during the timeframe of 1970 to 2012?

The cases briefed in this study show that the Courts agreed with the board at an overwhelming rate. In 87 (89%) of the cases, the Courts agreed with the board's decision to suspend or expel the student. In 22 (22%) of the cases, the plaintiff and defendant each received 11 favorable rulings from the Courts in the appeals process.

In the 97 cases that occurred between 1970-2012, the Courts usually affirmed the board's decision to suspend or expel if the board's policies were clearly defined, procedures followed accordingly, and their actions deemed appropriate for the overall school setting. Clearly, courts are reluctant to interfere with school business and typically allow schools to monitor themselves; however, courts will enter in to the equation when a possible amendment violation has occurred. Understanding local board and state policies and established court rulings will guide administrators away from the courtroom and allow them to be more effective in their role as the local administrator.

3. What are the trends in court cases on the authority of school officials in out-of-school suspension or expulsion during the timeframe of 1970 to 2012?

In the 97 cases reviewed, the Courts favored the school board in 87 of the cases. The courts favored the student or the student representative in 11 of the cases. In a majority of the cases, the Courts were reluctant to interfere with the discipline process of the school or school board because it did not want to get into the business of running a school. In 86 of the cases, the courts affirmed local school board decisions because the proper procedural process for administering discipline was followed.

4. What principles for school administrators can be discerned from court cases about the authority of school officials in out-of-school suspension or expulsion during the timeframe of 1970 to 2012?

The following principles for the school boards were discerned from court cases about out-of-school suspension or expulsion in K-12 students.

1. If a student was suspended or expelled for a violation that required a search to be performed and the school received consent to execute the search, the courts reviewed the schools ruling (*In re G.C.*, 1972), and ruled in favor of the school. School administrators must act within the guidelines established in board policies and have an adequate understanding of policies (*People v. Dilworth*, 1996).

2. Schools have an obligation to protect all of students under their care. An overwhelming number of cases indicated support for schools where a school environment was in danger or threat. The courts provided the schools with a great deal of leeway when defining danger or threat. The cases focusing on protection of students encompassed areas such as drugs, weapons, and student behavior (*James v. Unified School District*, 1995).

3. Any school sponsored activity falls within the school's disciplinary authority (*Pirschel v Sorrell*, 1998).

4. It is the responsibility of school officials to provide sufficient notice of a disciplinary hearing (*Covington County v G.W.*, 2000).

5. In cases where a student admits to the violation, the courts will make sure the actions taken by the school were administered properly (*Porter v Ascension Parker School Board*, 1995).

6. There is a direct relationship between a legal search and the history of the offender (*State v. Schloegel*, 2009).

7. In cases where an outside source was used for information related to a violation, the courts reasoned that a legal search could be performed based on an informant (*Wofford v. Evans*, 2004).

8. Although Due Process does not warrant a specific type of procedure; it provides an opportunity for the accused to respond to accusations and allegations (*Goss v. Lopez*, 1975).

Out-of-school Suspension/Expulsion Checklist

- Total number of days suspended or expelled from school for this incident:
1 ___ 2 ___ 3 ___ Suspension/Expulsion extended > 3 days
- Total number of out-of-school suspensions/expulsion days in this school year:
1 ___ 2 ___ >3 ___
- Notification of suspension/expulsion letter, including notification of their right to appeal, has been sent to parent or guardian:
Yes ___ No ___

- Hearing date set so all parties can attend (within 10 days of suspension/expulsion):
Yes ___ No ___
- Parent/guardian contacted by phone:
Yes ___ No ___
- Incident report has been completed and included in confidential file:
Yes ___ No ___
- Copy of suspension/expulsion letter given to proper authorities, if required by system:
Yes ___ No ___
- Re-entry plan has been developed to facilitate the student's successful return to school:
Yes ___ No ___
- Referrals to external agencies made, if appropriate:
Yes ___ No ___

Conclusion

Discipline is all forms of corrective punishment or action other than suspension or expulsion. Discipline can include, but is not limited to, removal from class, restriction from extracurricular activities, or in some states, corporal punishment. Violent tragedies, such as the 1999 Columbine High School shootings, have made expulsion and suspension a normal response, not only to the serious threats to school safety, but also to a number of minor offenses. The focus of this study was out-of-school suspension and expulsion. Suspension is the temporary removal of a student from the regular school setting for no more than 10 consecutive days. Suspensions are usually imposed by the principal and are the result of a violation of school rules

or procedures. Expulsion, also known as long-term suspension, restricts the students from attending school for an indefinite period of time, but is greater than 10 consecutive days. Expulsion is a more perpetual removal of a student for a violation of more severe school rules or policies.

The court cases reviewed for this study revealed the number of cases varied little between the years of 1990-1999 and 2000-2012. Although there was a slight increase in the last decade, the number of cases decided by the courts was not alarming. The reason for the number of cases being fairly consistent could be from landmark cases such as *Goss v. Lopez* (1975) and *Wood v. Strickland* (1975). These cases set precedent in establishing guidelines for many of the issues facing the courts today. Also, the continued reluctance of the courts to get involved in school policies and procedures could explain a plateau effect in court cases.

As mentioned previously, *Goss v. Lopez* (1975) is the landmark case relating to due process. This case addressed the distinction between expulsion and suspension and drew a line between the two types of exclusion at 10 days. Suspension, removal for less than 10 consecutive school days, requires minimal due process and lies within the authority of the local school administrator. Expulsion, removal for more than 10 consecutive school days, requires significantly more procedural measures and only the local board has that authority. As a result of this study, the I question the significance of this case. Of the 11 cases linked to due process before 1975, only one case *Farrell v. Joel* (1971) attempted to suspend a student for more than 10 days. In that particular case, the court was reluctant to involve itself in the school decision, so the court remanded the case back to the local school board. Upon mutual agreement, both parties agreed to a 10-day out of school suspension. Although this case was cited in every court case

researched in this study after 1975, little evidence was found indicating a significant problem prior to the court's decision.

Administrators should familiarize themselves with the school's code of conduct and the system's handbook. The language in both should be interchangeable, clear, rational, and inclusive. These books should define unacceptable behavior, a list of potential consequences, guidelines for administering punishment, and standards for a student's responsibility in the discipline process. In the case of *Rohrbaugh v. Elida Board of Education (1990)*, the evidence presented was sufficient evidence of quality and quantum required to show violation of policy. The court determined that the wording in the policy "under the influence" allowed the board to act in the matter in which did.

School officials are trained and compensated to determine what form of punishment best addresses a student's contraventions. School officials are in a far better position than is a judge to determine what to do with a disruptive disobedient student at school. They can determine best, for instance, whether out-of-school suspension or expulsion will be more effective in improving a child's behavior. Courts traditionally consider a school official as an expert due to their closeness and familiarity to a situation and do not want school officials to fear court challenges for every act or action. For this reason, school officials are given wide discretion in their disciplinary actions. If the disciplinary action clearly demonstrates an egregious mistake by the school, a court may intervene but is still hesitant to pass judgment on a school board or official. There must be a rational connection between the offense and the punishment.

Finally, a school administrator's responsibility in the sphere of student discipline is much like being judge and jury. An official must listen and evaluate all evidence and make the best possible decision in handing out reasonable consequences for a student's action. Unfortunately

there is not always a clear-cut answer to handle a situation and they must rely on what is at their disposal. At their disposal are school boards, local boards, and state guidelines for the discipline process. An effective school administrator will weigh all evidence and make what they believe is the best possible action to deter a student from making the same mistake twice.

Recommendations for Further Study

Based on the findings and conclusions of this study, the following recommendations are made:

1. Additional study should be performed on the impact of *Goss v. Lopez* (1975). Was this case really necessary for change in due process procedures?
2. Do out-of-school suspension and expulsion percentages differ between special education students and regular education students?
3. Additional study should be performed on the effectiveness of out-of-school suspension and expulsion.
4. Additional study should be performed to analyze the effectiveness of states that provide alternative educational opportunities to students facing out-of-school suspension or expulsion.
5. Additional study should be performed to analyze the role of school resource officers relating to their position. When are they acting as a school official and when are they acting as a law official?

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