1-1-1978

Student Rights And The Disciplinary Process In Constitutional Law

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STUDENT RIGHTS AND THE DISCIPLINARY PROCESS IN CONSTITUTIONAL LAW

University of Nevada, Las Vegas ED.D. 1982

University of Nevada,

Las Vegas

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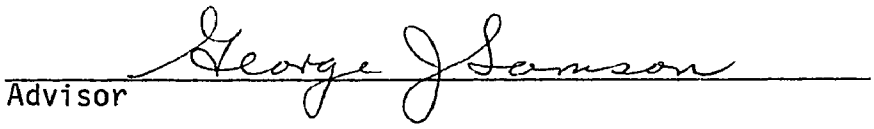
A dissertation submitted in partial fulfillment of the requirements for the degree of Doctor of Education in Educational Administration and Higher Education

by

Edward E. Goldman

May 1982

The dissertation of Edward E. Goldman is approved:



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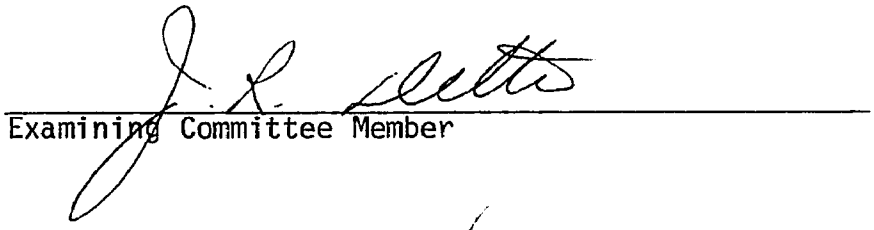

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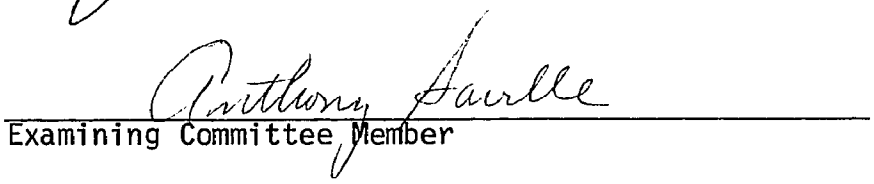

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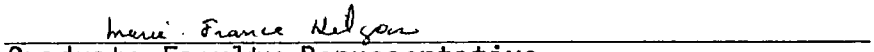

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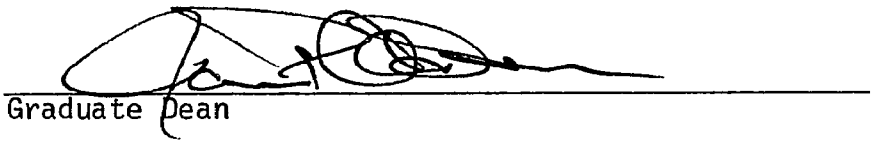

Graduate Dean

University of Nevada,

Las Vegas

May 1982

ACKNOWLEDGEMENTS

There are so many people involved with the production and attainment of an advanced degree that acknowledgement pages often turn into a telephone directory. Nevertheless, I feel that it would be unfair not to thank and acknowledge the people who helped with the completion of this project.

My most sincere gratitude is offered, of course, to my Graduate Faculty Committee consisting of Dr. John R. Dettre, Dr. Marie-France Hilgar, Dr. Anthony Saville and my advisor, Dr. George Samson. Two of these people in particular guided me throughout my two years at the University of Nevada, Las Vegas. Dr. George Samson, without whose help and expertise knowledge in my field of concentration, school law, I would have been lost. Words alone cannot express my thanks to him. Dr. Jack Dettre has been my constant critic, but with the intent of causing me to improve and to constantly question my motives. He was demanding and harsh, but for this I am grateful.

To JoAnn Jacobs who, for the years I was at the University, was secretary to the Department of Educational Administration and Higher Education and without whose help none of the administrative and bureaucratic requirements of the University would have been met, my sincere thanks.

While completeing my work, I was also a full-time teacher in the public schools of Clark County and had the opportunity to observe first-hand the subjects which I was researching; there are

some people to whom I owe a debt of gratitude for this. My principal, Mr. Larry Turner, who allowed me to work in the student discipline office at school where I could not only observe the topics about which I was writing, but could also put them into practice and thereby, obtain first-hand knowledge of my subject matter. Mr. Turner was always supportive of all my work, and for this I am thankful.

To Mr. Even Henderson, my Assistant Principal, who always had time to answer my questions and offer his advice obtained from years of experience and who made available to me his collection of materials on the subject of which I was writing, accumulated over many years, I am most grateful.

To Mr. Jack Mannion, Dean, who allowed me to work with him, thereby affording me the opportunity to gain the experience and understanding of the project on which I was working. No finer disciplinarian exists who embodies at the same time the humaneness and firmness needed in his job. He was scrupulous in adhereing to fairness in dealing with all students and never once became angry with me for the many mistakes I must have made, no words can express my gratitude.

To my classroom aide, Wille Mae Coleman, who put up with me this year while my mind was sometimes on other things and who assisted me in any way she could; to Marlin Zimmerman, a student who helped with the compilation of the statutes always working calmly and efficiently; and to my colleague, Dr. Max Marble, who made available to me his dissertation and thesis which were an invaluable aid in my research, go my sincere thanks.

Thanks are due to Joyce Standish, my editor, without whose help this dissertation would never have come about. To my typist, Vivian Sorensen Broadhead, I offer special thanks, for taking it upon herself to make sure that this project was correctly completed.

Finally, to my parents, who encouraged and supported me throughout my years in graduate schools, no amount of thanks can properly be expressed. And many thanks to my wife-to-be, Sue, who was patient with me when times were trying and whose understanding was greatly appreciated.

Now I'm finished.

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Chapter 1

INTRODUCTION

In "A Legal Memorandum," published by the National Association of Secondary School Principals in March of 1981, it was stated that although written codes of student conduct are a fairly recent phenomenon, school administrators who undertake to rewrite their disciplinary policies must be cognizant of constitutional considerations and be schooled in educational law (1) (39, 1981, p.1).

What exactly is contained in school law? And what are the constitutional considerations of which to be cognizant? School law, as we know it, is the embodiment of the statutory enactments of the rules and regulations of local governing boards when they, in turn, are authorized to enact such rules and regulations by the state legislature.

Constitutional considerations are the collective decisions of the various courts of the land but most importantly, the decisions of the United States Supreme Court. Education has long been the province of the states, and the Supreme Court of the United States acknowledged that role when it declared that "education is primarily the concern of the states" (25, 1958, p. 360).

The Supreme Court, however, prior to 1969, had never chosen to be involved in the area of student rights and the disciplinary process. In 1969, with the decision in the case of Tinker v. Des Moines Independent Community School District (393 U.S. 503), the Supreme Court began a new era of entanglement in the affairs of the nation's public schools. In the decision in that case, the Supreme Court extended

guarantees of free speech and expression to the students of the public schools and declared that constitutional guarantees are not to be abrogated at the schoolhouse gates (56, 1977, p.133).

That decision was followed six years later with another one, Goss v. Lopez (419 U.S. 565), which declared that students also possessed constitutional guarantees of due process when being subjected to the disciplinary process. The High Court voided an Ohio law which empowered an Ohio school principal to suspend a student for up to ten days without affording him the right to a hearing or notice (40, 1975, p.725).

Two years later, in another student rights case, Ingraham v. Wright (430 U.S. 651), the Supreme Court was asked once again to become involved in the disciplinary process of the nation's public schools, this time to declare that the use of corporal punishment as a disciplinary tool in the nation's public schools violated both the Eighth Amendment's prohibition of cruel and unusual punishments and the Fourteenth Amendment's prohibition against denial of procedural due process. In this case, however, the Supreme Court refused to extend students' rights any further than it had done before and declared that corporal punishment was not violative of the Eighth Amendment's cruel and unusual punishment clause nor of the Fourteenth Amendment's procedural due process clause. The use of corporal punishment, declared the Court, was a matter to be left to the wisdom of the state legislatures (50, 1977, p.711). See Appendix A for decision excerpts.

The disciplinary process and the law is not a new dilemma. As early as 1645, the school committee of Dorchester, Massachusetts faced the problem and determined the following:

> (Ninthly), and because the rod of correction is an ordinance of God necessary sometimes to be dispensed unto children, but such as may easily be abused by overmuch severity and rigor on the one hand, or by overmuch indulgence and lenity on the other, it is therefore ordered and agreed that the schoolmaster, for the time being, shall have full power to minister correction to all or any of his scholars without respect of persons, according as the nature and quality of the offense shall require whereto. All of his scholars must be duly subject and no parent or other of the inhabitants shall hinder the master therein. Nevertheless, if any parent or others shall think there is just cause of complaint against the master for too much severity, such shall have liberty, friendly and lovingly, to expostulate with the master about the same; and if they shall attain satisfaction, the matter is then to be referred to the wardens who shall impartially judge betwixt the master and such complaints (64, 1978, p.4).

The fact remains that education is a governmental function and government is therefore required to mandate regulations and ordinances for the operation and maintenance of the public schools, provided, of course, that such rules and regulations or ordinances are in conformity with the established law of the land.

When state legislatures abdicate their responsibility by not addressing the issues they are charged with confronting, it is an open invitation to chaos in the form of litigation in the courts. When remedies do not exist in statutory law, the courts of this nation have become the final arbiters of what is just and constitutional. The fault may lie not with the courts but with the state legislatures who have left a vacuum which the courts are asked to fill. Justices Hugo Black and John Harlan, in their dissent in the Tinker case, each echoed these sentiments when they stated that:

> I refuse to believe that the Constitution compels teachers, parents and elected school officials to surrender control of the American public school system. . . I for one, am fully pursuaded that school pupils are not wise enough, even with this Court's expert help from Washington, to run the 23,900 public school systems in our fifty states (96, 1969, pp. 316-7).

Statement of the Problem

Based upon the preceding information, it becomes clear that there is ambiguity with respect to what is contained in the statutes of the 50 states and what courts have perceived to be the law of the land. On that basis, the following question seems relevant:

> To what extent do the state statutes pertaining to student rights and the disciplinary process provide for a legal description or definition of the rights and responsibilities of students?

The following questions further delineated the purpose of this study:

1. To what extent do state statutes reflect the decisions of the courts, particularly the Supreme Court of the United States, in the area of student rights and the disciplinary process?

2. To what extent do state statutes need to be revised in order to conform with the decisions of the United States Supreme Court in the area of student rights and the disciplinary process?

3. What is the basis of authority for the federal government in the field of education?

4. Is it possible to develop a composite system of statutes which would uniformly apply to any or all states?

Assumptions

For the purposes of this study, the following assumptions were advanced:

1. Statutory protection and legal identification are essential aspects of student rights and the disciplinary process.

2. There is a need to examine and compare state statutes which provide descriptions of the various rights and responsibilities of students and educators.

3. Students possess certain protected constitutional rights while at school, and these rights need to be established as part of the educational codes of the 50 states.

4. There is a basis of authority for the involvement of the federal government in the field of education, and decisions of the federal government have become a basis for the protection of student rights in the public schools.

Purpose of the Study

The purpose of the study was as follows:

1. This study attempted to determine to what extent the statutes of the 50 states reflect the decisions of the United States Supreme Court in the area of student rights and the disciplinary process.

2. The study provided current documentation of the legal status of student rights and the disciplinary process as provided for in the statutes of all 50 states.

3. The study established the authority of the federal government in the field of education.

4. The study advanced suggestions, additions, alterations, or deletions to the statutes of the 50 states for the purpose of improving the legal status of students and educators alike.

Limitations of the Study

The following limitations are important to consider when reviewing the findings of this study:

1. The research design of this study was descriptive in nature and all analyses were limited to a systematic description of the topic.

2. The study was concerned with the three landmark United Stated Supreme Court decisions in the area of student rights and the disciplinary process.

3. No attempt was made to deal with the decisions of other courts, both state and federal, unless they were as a consequence of a Supreme Court decision.

4. Only those statutes relating to student rights and the disciplinary process were analyzed for their legal status. Rules, regulations and ordinances or opinions of the various Attorneys General were not fully addressed in this study.

5. The so-called "Immunity" statutes were not considered comprehensibly as a basis for the conclusions and recommendations in Chapter 5.

6. It was not intended to imply that clarity of statutory language would resolve all litigation involving the issues under consideration.

7. The District of Columbia was not included in the study.

8. No attempt was made ot deal with long-term suspensions or expulsions.

Definition of Terms

Ambiguity means the absence of specificity in keeping with identified criteria as established in the National Association of Secondary School Principals study of student disciplinary policies of the 50 states.

Constitutional Guarantees are those grants of the United States Constitution which guarantees certain rights to all citizens such as freedom of speech and assembly.

Corporal Punishment is defined as the process of inflicting physical force on an individual for the purpose of punishment.

Court is used to mean the Supreme Court of the United States. All other courts are listed by their full title.

Inter Alia is used to mean "among other things which are included."

Ipse Dixit is used to mean "by one's own say so."

Loco Parentis is used to mean one who stands in the place of the parents.

Procedural Guarantees are defined as those constitutional guarantees which provide for due process of law.

Regulatory Guarantees are defined as those constitutional mandates which impose regulations prior or subsequent to implementation.

Public Schools means those schools which are tax-supported and which are controlled and operated by the state or one of its creations.

Statutory Provision is that enactment of the legislature of the state government designed to protect the interest of the citizenry, while insuring constitutional protection.

Suspension is used to mean the temporary exclusion of a pupil from class or school.

Methods of the Study

In order to achieve the purposes of this study, the following procedures were utilized:

1. The rights and responsibilities of students as provided for in the Rules and Regulations of the Clark County School District, Las Vegas, Nevada were analyzed.

2. Based upon this analysis, the Nevada Revised Statutes were analyzed to determine the extent to which they provided guidelines of disciplinary expectations.

3. From those foundations, a select sample of rules and regulations from selected school districts were reviewed to determine if the areas under study were addressed by other school districts.

4. From the above samples, the issues under consideration correlated into three main areas of study with various component areas.

5. State statutes pertaining to student rights and the disciplinary process were then examined and analyzed to determine the extent to which state statutes provided for a legal description or definition of the rights and responsibilities of students and the disciplinary process.

6. Guidelines established by the National Association of Secondary School Principals in a study on student rights and the disciplinary process were the criteria used to determine the clarity or ambiguity of the state statutes (39, 1981, p.1).

7. Using available legal definitions and descriptions, prototype bills for inclusion in the state statutes of all 50 states were suggested.

Summary

The information in Chapter 1 formed the basis for this study. The subsequent chapters of this study reviwed in more detail the related literature, reported findings and articulated the summary, conclusions and recommendations.

Chapter 2 in particular dealt with the review of the literature, Chapter 3 with the methodology, Chapter 4 with the findings and Chapter 5 with the summary, conclusions and recommendations of this study.

Chapter 2

REVIEW OF LITERATURE

"Schoolboys aren't beaten much anymore, but then they don't know very much either."

Author Unknown

Introduction

The purpose of Chapter 2 was to review related literature in the area of student rights and the disciplinary process in constitutional law with the intent of determining from the review of the literature: the history and evolution of student rights, the changes that have occured in the field and the history and theories behind corporal punishment.

Beginning in 1969, the Supreme Court of the United States decided three landmark cases which dealt with the constitutional rights of students in the public schools. Not since the founding of the Republic had the Supreme Court involved itself in the practical operation of the nation's public school system as it did when it decided these three cases.

Although as early as 1819, in the case of Dartmouth College v. Woodward, 4 Wheaton 518 (1819), the Supreme Court ruled that "education is an object of national concern and a proper subject of legislation" (27, 1819, p.518). That particular case involved post-secondary education and had no direct bearing on the nation's public schools.

In another case, Cooper v. Aaron, 358 U.S. 356 (1958), the Court declared that although education was a local concern, still, like all other state activity, it "must be exercised with federal constitutional requirements as they apply to state action" (25, 1958, p.360).

In yet another decision, West Virginia Board of Education v. Barnette, 319 U.S. 624 (1943), it was ruled inter alia that a public school may not compel a student to salute the flag when that action violated religious beliefs. Writing for the majority in that opinion, Justice Robert Jackson stated that boards of education "have of course important, delicate and highly discretionary functions, but none that they may not perform within the limits of the Bill of Rights" (56, 1977, p.126).

It was not until 1969, in the case of Tinker v. Des Moines Independent Community School District, that the issue of student rights surfaced as a major issue. In that particular case, the Court dealt with the constitutional rights of students as they applied to free speech and expression (56, 1977, p.24).

Following that decision came two more decisions which dealt with the constitutional rights of students and the limitations placed on school authorities. In 1974, in Goss v. Lopez, the Supreme Court limited that rights of school officials to suspend students without recourse to the constitutional guarantee of due process (56, 1977, p.57).

In 1977, in the case of Ingraham v. Wright, the Supreme Court, in a retreat from its earlier decisions, ruled in favor of school authorities employing corporal punishment as a disciplinary

tool. The Court allowed the use of corporal punishment without further consideration (50, 1977, p.651).

It was in keeping with these developments that a legal memorandum, published by the National Association of Secondary School Principals, stated that "school administrators . . . must be cognizant of constitutional considerations and be schooled in educational law" (39, 1981, P.1).

The History and Evolution of Student Rights

"Children do not shed their constitutional rights at the schoolhouse door."

Supreme Court of the United States

With that statement, the Supreme Court of the United States unleashed a new era in the field of educational law. In his minority opinion in that same case, commonly known as Tinker, Justice Hugo Black had this to say about his colleagues' decision:

> One does not need to be a prophet or the son of a prophet to know that after the Court's holding today some students of Iowa's schools and indeed in all schools will be ready, able and willing to defy their teachers on practically all orders (97, 1969, p.628).

Justice Black believed that with this decision, students would henceforth believe that it is their right, granted them by the constitution, to run the schools of the nation:

> It is nothing but wishful thinking to imagine that young immature students will not soon believe that it is their right to control the school rather than the right of the state (90, 1969, p.628).

Justice Black refused to believe that "the Constitution compels teachers, parents and elected school officials to surrender control of the American public school system to students (97, 1969, p.628).

The United States is one of the few nations with no system of national education such as exists in other nations (53, 1976, p.197). The Constitution, in fact, does not mention even once the word "education" and therefore, education falls under the purview of the Tenth Amendment which states that

> the powers not delegated to the United Stated by the Constitution, nor prohibited to it by the States, are reserved to the States respectively, or to the people (7, 1978, p.444).

The federal government became involved indirectly in the educational process by means of interpreting various clauses of the United States Constitution. Most notable of these clauses had been the First, Fifth, Eighth, Tenth and Fourteenth Amendments to the Constitution (53, 1976, p.198).

With Dartmouth College v. Woodward, the court began to involve itself in the area of education and has continued to do so. In 1923, the case of Meyer v. Nebraska, 262 U.S. 390 (1923), placed a limit on the police powers of the state in favor of parental rights (51, 1976, p.199). That case was followed in turn by Pierce Brothers v. Society of Sisters of the Holy Names of Jesus and Mary, 268 U.S. 510 (1925), which upheld the right of parents to send their children to private schools (53, 1976, p.200). After Pierce came Cochran v. Louisiana, 281 U.S. 370 (1930), Everson v. Board of Education, 330 U.S. 1, (1947), McColum v. Board of Education, 333 U.S. 203 (1948), Zorach v. Clausen, 343 U.S. 306 (1952), the landmark Brown v. Board of Education, 347 U.S. 483 (1954) and in Cooper v. Aaron, while conceding that education was "primarily the responsibility of the States" education was "not precluded from national legislation" (25, 1958, p.620).

Other cases followed: Engel v. Vitale, 370 U.S. 421 (1962); Lemon v. Kurtsman, 403 U.S. 602 (1972); Wisconsin v. Yoder, 406 U.S. 205 (1972); San Antonio v. Rodriguez, 411 U.S. 1 (1973); Lau v. Nichols, 414 U.S. 563 (1974); and many others.

Not until Tinker, however, had the Court involved itself with a case which dealt with the actual operation of the public schools, particularly the disciplinary process.

Two things are certain: the impact of the federal government has resulted, among other things, from the decisions of the Supreme Court of the United States and the lower courts in the federal system (53, 1976, p.197); and secondly, the issue of student rights, while seeming to be an old concern, was a recent phenomenon (41, 1975, p.40).

While there were some decisions of the federal courts that dated back a hundred years, the federal judiciary had only been active in the field for the last 25 years (53, 1976, p.197), and it was during that time that student rights had surfaced as an issue. Why student rights became an issue is not altogether clear, but many theories were possible. McNeil (21) (41, 1975, p.40) believed that it was an awareness of human rights in general that was heightened in recent years. This awareness, coupled to the war in Vietnam, led to the politicization of college students and hence, to a particular awareness of student rights.

It should be noted, however, that while the issue of student rights was a recent phenomenon, litigation of student issues was not. There was a distinct difference between the decisions in

Barnette and Tinker. In the former, the Court merely upheld the right of an individual to practice his religion whether in school or out and had not attempted an intrusion into the rights of the states or local communities to run the public schools. Tinker, however, was a calculated decision made on behalf of students requesting to exercise their constitutional rights within the framework of the public school system and the Supreme Court's acquiesence to that request (41, 1975, p.40).

Liebley (41, 1975, p.40) suggests another factor, namely that until recently it was assumed that "rights" referred to the rights of adult, white males, and that with the advent of "black rights," "minority rights," "women's rights" and "gay rights" would come "student rights." Whatever the reasons, the fact of the matter was that student rights were intorduced as an issue by the Tinker decision.

Ira Glaser, an American Civil Liberties Union (ACLU) activist, argued that there were only two institutions in the United States which "steadfastly deny that the Bill of Rights applies to them. One is the military and the other is the public schools" (44, 1972, p.134). The public schools, claimed Glaser, "teach and preach that authority is more important than freedom, order more precious than liberty, and discipline a higher value than individual expression" (44, 1972, p.134).

As one of the courts noted, courts were not and are not the proper forums for adjudicating school disciplinary problems:

> We think it a misuse of our judicial power to determine, for example, whether a teacher has acted arbitrarily in paddling a particular child for certain behavior or whether

in a particular instance of misconduct five licks would have been more appropriate than ten licks (50, 1977, p.723).

A Changing Profile

Prior to 1967, says Kimbrough (53, 1976, p.207), the relationship of the school master to the student was one of *in loco parentis* as established in the common law. This meant that school authorities viewed their relationship with their students as being the same relationship that parents had with their children. *In loco parentis*, the basic rights enjoyed by the parents, is the right of custody not liberty (53, 1976, p.207). The Supreme Court generally recognized the common law principles as applying to the schools when it noted that "teachers may impose reasonable but not excessive force to discipline a child" (50, 1977, p.724).

In absence of countervailing law or constitutional mandate, the common law principles applied to the relationship between school authorities and their students. In 1967, however, the Supreme Court issued its decision in *In Re Gault*, and with that decision, the common law principle governing the relationship between student and school was replaced with a constitutional relationship (53, 1976, p.207). While the decision in *Gault* did not directly involve the schools, the precedent set was quickly followed by a more far-reaching decision, namely, *Tinker*.

As long as schools operated under the concept of *in loco parentis*, they could discipline as they saw fit within the bounds of reason; *Tinker*, however, changed all that. According to Flygare, (34, 1979, p.210) it was the *Tinker* decision which "ushered in the

student rights movement of the seventies" and with the exception of Brown v. Board of Education, said Flygare, "the Tinker case is probably the most important educational decision ever rendered by the United States Supreme Court" (34, 1979, p.210).

Immediately following Tinker, the United States Court of Appeals for the Seventh Circuit decided, in the case of Scoville v. Board of Education of Joliet Township High School, that the school board could not expel students for what had been termed "gross disobedience" and "misconduct" by the Board after the students published objectionable material in their underground newspaper.

> We conclude that absent evidentiary showing, and an appropriate balancing of the evidence . . . to determine whether the Board was justified in a forecast of the disruption and interference, as required under Tinker . . . (87, 1970, p.10).

With that decision, the Court of Appeals entered judgment for the students and the United States Supreme Court denied certiorari and refused to hear the case (88, 1970, p.826). An important question asked was simply: Why bother with student rights when the issue had been dormant for so many years? According to the ACLU the answer was that

> if secondary school students are to become citizens in the democratic process, they must be given every opportunity to participate in the school and in the community with rights broadly analagous to that of adult citizens (44, 1972, p.142).

The ACLU further maintained:

> From the standpoint of academic freedom and civil liberties, an essential problem in the secondary schools is how best to maintain and encourage freedom of expression and assembly while simultaneously including a sense of responsibility and good citizenship with awareness of the excesses into which the immaturity of students might lead (44, 1972, p.142).

It was the Tinker decision, said Flygare, more than any other, that was responsible for allowing students to "join political organizations and to have due process prior to suspensions and expulsions" (34, 1979, p.210). Yet even the ACLU did not advocate unlimited student rights:

> It is the responsibility of faculty and administration to decide when a situation requires a limit of freedom for the purpose of protecting the students and the school from harsh consequences. In exercising that responsibility, certain fundamental principles should be accepted in order to prevent the use of administrative discretion to eliminate legitimate controversy and legitimate freedom (44, 1979, p.142).

The ACLU suggested that three basic principles applied in determining when the curtailment of certain rights were in order:

> 1. A recognition that freedom implies the right to make mistakes and that students must sometimes be permitted to act in ways which are predictably unwise so long as the consequences of their acts are not dangerous to life and property and do not seriously disrupt the academic process.
>
> 2. A recognition that students should have the rights to live under the principles of "rule of law" rather than "rule of personality."
>
> 3. A recognition that deviation from the opinions or statements deemed desirable by the faculty is not ipso facto a danger to the educational process (44, 1979, p.142).

In the case of Cox v. Louisiana, the Court ruled that the rights of free speech and assembly do not mean that everyone with an opinion and belief to express may address a group at any time or place (26, 1965, p.356).

In his closing remarks in the Tinker case, Justice Hugo Black wrote:

> The original idea of schools, which I do not believe

> is yet abandoned as worthless or out of date, was that children had not yet reached that point in experience or wisdom which enabled them to teach all of their elders . . . taxpayers send children to school on the premise that their age is such that they need to learn not teach. Change has been said to be truly the law of life, but sometimes the old and the tried are true and worth holding (97, 1969, p.628).

Justice Black also noted that

> I for one, am fully persuaded that school pupils are not wise enough, even with this Court's expert help from Washingtin, to run the 23,900 public school systems in our fifty states (97, 1969, p.628).

In 1974, the Court scrutinized and intruded further into the field of student rights and attacked the issue of suspension as a disciplinary measure. In Goss v. Lopez, the Court ruled that constitutional guarantees of due process are applicable in disciplinary hearings where the student is deprived of a property interest guaranteed to him by the Constitution (40, 1975, p.725).

What exactly was the role of the teacher and school with respect to their student and their rights? Banas stated that a teacher "is nothing more than a police officer without benefit of badge or gun" (8, 1976, p.211). A Masschusetts court put it this way:

> Schools should be especially sensitive to their responsibility for treating students fairly. The American public school system, which has a basic responsibility for instilling in its students an appreciation of our democratic system, is a peculiarly appropriate place for the use of fundamentally fair procedures (40, 1975, p.727).

The Supreme Court of the United States said:

> The State is constrained to recognize a student's legitimate entitlement to a public education as a property interest which is protected by the Due Process Clause and

> which may not be taken away for misconduct without adherence to the minimum procedures required by that clause (40, 1975, p.727).

In a comment on the importance of education as a governmental function, Justice Byron White wrote for the majority in the Goss case:

> Education is perhaps the most important function of state and local governments, and the total exclusion from the educational process for more than a trivial period, and certainly if the suspension is for ten days, is a serious event in the life of the suspended child (40, 1975, p.728).

In spite of that opinion, the Court emphasized that by and large, with few exceptions, education was a matter left to the states:

> Judicial interposition in the operation of the public school system of the Nation causes problems requiring care and restraint . . . By and large, public education in our Nation is committed to the control of state and local authorities (56, 1977, p.140).

The Court also noted that it was not attempting in any way to outlaw suspensions or make their imposition an impossibility:

> The student's interest is to avoid unfair or mistaken exclusion from the educational process, with all of its unfortunate consequences. The Due Process Clause will not shield him from suspensions properly imposed, but it disservices both his interest and the interest of the State if his suspension is in fact unwarranted (56, 1977, p.140).

The Court went on to say that "suspension is considered not only to be a necessary tool to maintain order but a valuable educational device (56, 1977, p.140). In fact, the Court felt that it had done nothing more than impose requirements "which are, if anything, less than a fair minded school principal would impose upon himself to avoid unfair suspension" (56, 1977, p.140).

The Court had prescribed, as a matter of constitutional law, the minimum constitutional requirements applicable to student discipline in the public schools.

Why the Court interjected itself into a procedural issue which it conceded should fundamentally be the province of state and local governments was best stated by Justice Felix Frankfurter when he said that "procedure is to law as scientific method is to science" (48, 1967, p.21). Others, however, disagreed, Nolte, an expert on school law, stated that resolving the issues relating to due process rights of students could make "public school operation a potential nightmare for many school boards and administrators" (31, 1976, p.2). Justice Lewis J. Powell, a former chairman of the Richmond, Virginia School Board, writing for the minority in the Goss case, stated that "few rulings would interfere more extensively in the daily functioning of schools than subjecting routine discipline to the formalities and judicial oversight of due process (31, 1976, p.2).

Corporal Punishment

"He who does not beateth his son, hateth him."

Proverbs

In the last of the landmark cases of the 1970s dealing with student rights, the Court agreed to hear a case that involved the constitutionality of corporal punishment as a disciplinary method. The Court's agreeing to hear the case, Ingraham v. Wright, seemed a logical continuation of its previous efforts, begun in Tinker and followed by Goss, to set the

constitutional limits and requirements in student rights cases. No doubt, many expected the Court to continue to scrape away at the authority of teachers and administrators to discipline students, as it had done in the previous two cases. This time, however, the Court retreated, and Justice Lewis Powell, the dissenter in the Goss decision, found himself at the head of a 5-4 Supreme Court majority which had upheld that right of school authorities to impose corporal punishment in the public schools (50, 1977, p.711). The Court had made clear in Ingraham that not only was it not willing to extend Goss any further, but meant what it said when it stated in Goss that operation of the nation's public schools was a matter for state and local authorities:

> In essence we refuse to set forth, as constitutionally mandated, procedural standards for an activity which is not substantial enough, on a constitutional level, to justify the time and effort, which would have to be expended by the school in adhereing to those procedures or to justify furthe r interference by federal courts into the internal affairs of public schools (50, 1977, p.722).

Fiske, of the ACLU, stated in a presentation to the Los Angeles Board of Education, which was holding hearings on whether to restore corporal punishment to the Los Angeles school system, that

> nobody has shown that it (corporal punishment) is in any way effective in helping the student to develop more responsible, slef-disciplined behavior or even in helping other students and teachers be more secure. In fact, use of violence on such students generates rage, resentment and hostility and may intensify the very behavior problems that triggered the punishment (56, 1977, p.84).

After listening to Fiske, the Los Angeles Board of Education voted to restore corporal punishment to the Los Angeles school system (56, 1977, p.84). Reardon and others disagreed with Fiske

on the wisdom of corporal punishment as an educational device and professional opinion was sharply divide on the issue.

One of the questions asked was: If not corporal punishment, then what as a disciplinary measure? School authorities, said the Supreme Court, regarded corporal punishment as a "less drastic measure than suspension or expulsion" (50, 1977, p.736). Another statement often made with regard to corporal punishment was that both students and parents often want it. Fiske responded to that argument and said that "children may ask for drugs and adults, too, but that doesn't mean we give it to them" (56, 1977, p.84). She further stated that "schools often do not give in to parents' demands nor should they when those demands violate principles of sound education and mental health" (56, 1977, p.724). Bishop Fulton J. Sheen, however, once observed in a radio address that "nothing builds character better than a pat on the back, if given often enough, hard enough and low enough." Another educator on trial for spanking a student observed that "spanking of a student is a ritual, not a beating" (54, 1959, p. unk.).

Aside from Fiske's own ipse dixit that corporal punishment violates good mental health, professional and public opinion was sharply divided on the practice and had been for more than a century (50, 1977, p.724). And with regard to corporal punishment, the Supreme Court stated that "we can see no trend toward its elimination" (46, 1977, p.724).

Corporal punishment had indeed been a ritual and part of the school setting for a long time. The British general,

O. Wilkenson, in describing his days at Eton stated that

> swishing was merely a slight stimulating process which an Eton boy was rather proud of undergoing at some time or other; for not to have been flogged certainly cast a stigma on an Eton lad in after life; at least it was so in my days (45, 1964, p.62).

John Lodwick, writing a semi-autobiographical accounting on the British Naval Academy at Dartmouth treated the issue of corporal punishment as rather routine. In one passage he had the cadet captain speaking to one of the cadets and stated:

> You know don't you that for persistent slackness I could have you taken to the gym, where you'd be put over a box-horse and given twenty official cuts with the doctor standing by, and that the record of that would go to the Admiralty? (57, 1951, p.230).

In another instance, cadet Roffey told a fellow-cadet with regard to owning a "cane" to be used for "beatings" that "you're obliged to use one sometimes but you can borrow it. You don't have to buy one of your own" (54, 1951, p.213).

In yet another interesting commentary on the value and effect of corporal punishment, the following was found:

> "I see that you've never been beaten, for example," says the cadet captain to one of the cadets, named Taylor. "That means that you incite others more stupid but keep in the background yourself. Well, I'm going to do you a favor, Taylor. When you leave this cabin you're going to find yourself suddenly more popular . . . and probably a bit more human too. Bend over." "But what have I done, sir?" said Taylor. "There is an offense called pride," said the cadet captain. He gave Taylor six cuts, and they hurt (57, 1951, p.109).

With regared to the legal aspects of corporal punishment, many issues were raised by parents and students alike who were opposed to the practice in the public schools. Most common among these issues were the denial of due process and the right

of parents to bring up their children as they saw fit. The courts, however, took a dim view of individuals who tried to bring novel ideas into the courtroom. In one case, Simms v. Board of Education of Independent School District No. 22, 329 F. Supp. 678 (D.-N.M., 1971), the court stated:

> This court knows of no law which establishes the right of a school pupil to formal notice, hearing or representation before corporal punishment may be inflicted by school authorities . . . this court takes judicial notice that the purposes to be served by corporal punishment would be long passed if formal notice, hearing and representation were required (10, 1976, p.55).

Essentially, for corporal punishment to be legal, it must have been reasonable in the eyes of the judiciary (10, 1976, p. 63). Four standards have generally been upheld by the judiciary with regard to the imposition of corporal punishment:

> 1. That corporal punishment be in conformance with statutory enactment.
>
> 2. That corporal punishment be for the purpose of correction without malice.
>
> 3. That it not be cruel or excessive so as to leave permanent marks or injuries.
>
> 4. That it be suited to the age and sex of the pupil (16, 1976, p.64).

A North Carolina Court, in the case of State v. Pendergrass, 19 N.C. 365, 31 AM DEC 416 (1837), stated:

> We hold therefore, as a general rule, that teachers exceed the limits of their authority when they cause lasting mischief; but act within the limit of it when they inflict temporary pain (10, 1976, p.65).

Another charge often brought by parents, was that inflicting corporal punishment on students without parental consent deprives students and parents of their rights of due process

under the Fourteenth Amendment because any utilization of corporal punishment is arbitrary, capricious and unrelated to any legitimate educational purpose (33, 1980, p.53). In the case of Ware v. Estes, 328 F. Supp. 657 (N.D. Tex. 1971), the court stated:

> It is not within this court's function, or individual competence, to pass judgment upon the merits of corporal punishment as an educational tool or a means of discipline. The wisdom of the policy is not the court's concern. The only judgment made is that the evidence has not shown this policy to be arbitrary, capricious, unreasonable or wholly unrelated to the competency of the state in determining its educational policy (10, 1976, p.72).

The courts, in fact, had refused to substitute their judgment for that of the states in cases that involved wisdom of corporal punishment as a disciplinary tool:

> This court cannot, under applicable law, and would not if applicable law permitted the exercise of such discretion, substitute its judgment for the judgments of the defendants (the Board of Education) in the case at hand on what regulations are appropriate to maintain order and insure respect of pupils for school discipline and property. This court will not act as a super school board to second guess the defendants . . . if our educational institutions are not allowed to rule themselves, within reasonable bounds, as here, experience has demonstrated that others will rule them to destruction. (10, 1976, p.74)

It should be noted that while hundreds of corporal punishment cases have reached the various courts in the land, not one court had ever declared the custom unconstitutional. One can speculate as to the reasons; perhaps, as one court put it, "corporal punishment of pupils by teachers was practiced in the schools long prior to the adoption of the Fourteenth Amendment," (10. 1976, p.74) or, as the Supreme Court stated: "The use of corporal punishment in this country as a means of disciplining

schoolchildren dates back to the colonial period" (50, 1977, p.723).

It seemed that the issue was settled in 1975 with the decision of the United States District Court for the Middle District of North Carolina, in the case of Baker v. Owen, 395 F. Supp. 294 (M.D.N.C. 1975). That particular court stated, in response to a suit by a parent who claimed that corporal punishment is unconstitutional insofar as it is used over parental objections, that

> it should be clear beyond preadventure, indeed self-evident, that to fulfill its assumed duty of providing an education to all who want it, a state must maintain order within its schools . . . so long as the force used is reasonable - and that is all the statute here allows - school officials are free to employ corporal punishment for disciplinary purposes until, in the exercise of their own professional judgment, or in response to concerted pressure from opposing parents, they decide that its harm outweighs its utility (10, 1976, p.89).

In that case, the court stated that although corporal punishment was permissable, teachers must follow three guidelines when employing corporal punishment:

1. They must forewarn students that certain behavior is punishable by corporal punishment.

2. Another school official must be present to witness the punishment.

3. Parents must be furnished a written statement of paddling on request (10, 1976, p.89).

On October 20, 1975, the United States Supreme Court (96 S. CT. 210) (10, 1976, p.89) affirmed without comment the decision of the lower court. At the same time, however, another corporal punishment case had worked its way up through the federal court system.

Why the Supreme Court agreed to hear the new case, Ingraham v. Wright, is unclear since it had just affirmed the Baker decision, and the United States Court of Appeals for the Fifth Circuit did not rule differently in the Ingraham case (50, 1977, p.711).

The Court might have been trying to settle this issue of corporal punishment in a most definitive manner, or perhaps, in the words of Justice Lewis Powell, enough was enough:

> In the few years since Tinker there have been literally hundreds of cases of school children alleging violation of their constitutional rights. One can only speculate to the extent to which public education will be disrupted by giving every child power to contest in court any decision made by his teacher (40, 1975, p.730).

Justice Powell wrote for the majority in the Ingraham case, a sweeping decision for school authorities and teachers. So sweeping a decision was Ingraham that it did away with even the minor restrictions imposed in the Baker decision (50, 1977, p.711).

In a five-to-four decision, the High Court not only upheld the constitutionality of corporal punishment as not being violative of the Eighth Amendment prohibition against cruel and unusual punishment, but refused to extend the protection of the Fourteenth Amendment's Due Process Clause to corporal punishment cases, as it had done in Goss. No hearing, said the Court, was necessary before corporal punishment could be inflicted (50, 1977, p.736). Ingraham, says Flygare, was a "sweeping decision that seemed to take federal courts out of the business of deciding corporal punishment cases" (33, 1980, p.53).

In spite of that assertion, another case, Hall v. Tawney, 621 F 2nd 607, W. Va. (1980), attempted to exploit the issues left unresolved by Ingraham (33, 1980, p.53). Hall, in her suit, charged that corporal punishment violated her parents' right to determine the means by which she could be disciplined. Secondly, alleged Hall, corporal punishment violated substantive due process rather than procedural due process (33, 1980, p.53).

The United States District Court for the Southern District of West Virginia dismissed the case on the grounds that Ingraham had foreclosed federal cases on corporal punishment (33, 1980, p.53). The Fourth Circuit Court of Appeals, however, reversed the District Court in part and remanded the case to the lower court for further proceedings.

On the issue of parental rights, The Fourth Circuit Court upheld the District Court, stating:

> The State interest in maintaining order in the schools limits the rights of particular parents unilaterally to except their children from the regime to which other children are subject (33, 1980, p.53).

On the issue of substantive due process, however, the Appeals Court remanded the case to the District Court, stating that the Supreme Court expressly refused to decide whether or under what circumstances corporal punishment of a public school child had given rise to an independent federal cause of action to vindicate substantive rights under the Due Process Clause (33, 1980, p.53).

In attempting to define substantive due process, the Fourth Circuit Court said:

> The substantive due process inquiry in school corporal punishment cases must be whether the force applied caused injury so severe, or so disproportionate to the need presented, and was so inspired by malice or sadism rather than a merely careless or unwise excess of zeal that it amounted to a brutal and inhumane abuse of official power literally shocking to the conscience (33, 1980, p.53).

From a legal point of view, the case for corporal punishment may have been stated over a hundred years ago in the case of Cooper v. McJunkin, 4 Ind. 290 (1853), when that court stated:

> The husband can no longer moderately chastise his wife, nor . . . the master his servant . . . even the degrading cruelties of the naval service have been arrested. Why the person of the schoolboy, . . . should be less sacred in the eyes of the law . . . is not easily explained. It is regretted that such are the authorities - still courts are bound by them (10, 1976, p.93).

From a societal point of view, the Los Angeles Herald Examiner may have stated it best when it said:

> The Supreme Court has recognized the timely validity of the ancient proverb which cautions that to spare the rod is to spoil the child (58, 1977, p.14).

The article also noted that

> Children need real discipline as never before. All too often they get it only at school . . . you can't really reason with a child effectively on all occasions when behavior needs correcting. Sometimes only a judicious spanking works - and it works most of the time because youngsters respect and psychologically need constructive adult authority as a guideline for growth.
>
> When they have no respect for parental authority, family relations break down. When they have no respect for school authority, the educational system breaks down and invites the estimated 70,000 student assaults now being committed on teachers each year (58, 1977, p.14).

In another vein, Hentoff wrote:

> Students who are most often targets of corporal punishment are those with low self-esteem. Being paddled and otherwise abused only makes them feel more hopeless, self-

rejecting and angry (46, 1980, p. II5).

In another article, a mother, writing in support of corporal punishment, stated:

> I realize that eminent experts will argue every point expressed herein. But I claim expert status also on the basis that I have tried all their damnfool notions on child rearing and almost lost both my sanity and my son. After 4½ years under the above program (using corporal punishment for misbehavior) my 11½ year old boy is a joy and a delight . . . He will be a good man. And isn't that the point of the whole child rearing process? (59, 1977, p.II5).

Goldsmith (39, 1981, p.2) suggested what he calls the 11 F's for drafting a code of discipline to insure proper order in the schools. Contained in this code are guidelines which attempted to insure that Supreme Court mandates were observed.

According to Gluckman (38, 1982, p.1), it was also important to see to it that charges in a disciplinary proceeding were clear no matter what the offense or the punishment. Such charges as "continues to conduct himself in an irresponsible and disruptive manner" (38, 1982, p.4) had been found to be wanting by at least one federal court (Keller v. Fochs, 385 F. Supp. 262, E.D. WIS. 1974).

Summary

Chapter 2 attempted to cover the scope of the three landmark Supreme Court decisions which dealt with the issue of student rights. Beginning with the Tinker decision in 1969 and through the Ingraham case in 1977, the Supreme Court expanded the rights of students as never before. The introductory part of Chapter 2 attempted to set the stage for the rest of the chapter,

explaining the role of the federal judiciary in the federal process.

Beginning with the second section, "The History and Evolution of Student Rights," student rights from a legal perspective were traced through the decisions of the various federal courts but particularly the statements of the United States Supreme Court. The evolution of student rights was analyzed, beginning with the Tinker decision and proceeding through Goss and Ingraham. Tinker, it was pointed out, although not the first student rights case to be litigated, was the first case to be decided on the basis that students enjoy constitutional rights even while at school, or as the Supreme Court put it: "Children do not shed their constitutional rights at the schoolhouse door" (97, 1969, p.728).

In the next section, "A Changing Profile," an attempt was made to show the evolution and change which took place with regard to student rights and the authority exercised over students by school authorities. From the long-held common law concept of in loco parentis, the Supreme Court, by issuing its decision in the Gault case, changed that relationship into a constitutional one, namely, that children were entitled to the same constitutional protections as adults when confronted with the legal system. Following Gault, Tinker was the next logical step, namely, if children enjoyed constitutional guarantees in dealing with the legal system, these same constitutional rights were extended to all situations, the public school not excepted.

Tinker, in turn, was followed by Goss, which proceeded to extend constitutional guarantees, in this case, due process, into the disciplinary proceedings employed by the public schools.

Culminating the cycle, was an attempt to introduce constitutional prohibitions into the disciplinary operations of the public schools, namely, to forbid corporal punishment as being violative of the Eighth Amendment's cruel and unusual punishment clause.

In agreeing to hear the Ingraham case, the Supreme Court had the opportunity to do just that; instead, it balked, stating in effect that enough was enough. The federal courts would stop trying to substitute their judgment for that of local school officials and refused to allow corporal punishment to fall under the purview of the Eighth Amendment. This was the first retreat on student rights by the High Court since it had first heard the Gault case in 1967.

The Court's comments in Ingraham were, in effect, the foundation of this study, for in those comments the Court implied that the proper remedies for change lie with the statutes of the 50 states and not with the federal courts.

Chapter 3

METHODOLOGY

Introduction

The purpose of Chapter 3 was to explain the methods, techniques and instrumentation used to achieve the results of this study. The final product of this process was a proposal for the development of legislation designed to assist school officials in the implementation of statutory law in conformance with constitutional requirements in the field of student rights and the disciplinary process.

The proposal was also designed to clarify those statutes which, due to the vagueness of the language used in them, were often a major cause of litigation.

Technique / Instrumentation

A search was made of related literature in order to identify previous efforts to describe student rights issues and the disciplinary process. As a starting point, an analysis was done of the Clark County School District Rules and Regulations as they pertain to student rights and the disciplinary process. This analysis was done in order to determine how the three landmark cases under consideration were addressed at the school level.

An analysis was then undertaken of seven other selected school districts from around the nation to determine how these

issues were dealt with by the selected districts. The purpose, it should be remembered, was not to compile a study of selected school districts, since this was not the focus of this project. Rather, eight school districts, including Clark County, were surveyed to reflect size and to provide for a sample of the issues addressed by these local districts.

The sample school districts were chosen from among those available in related literature. No attempt was made to analyze various rules and regulations of local governing boards, as those rules pertained to the same issues under consideration.

The rights of students and the disciplinary process were broken down into three major areas of consideration and their components. The component areas were those which correlated with listings of a study undertaken by the National Association of Secondary School Principals in the area of student rights and the disciplinary process. The three areas and their component parts were as follows:

Area 1 - First and Fourth Amendment Constitutional Guarantees and the following components:

Freedom of Speech

Student rights

Search and seizure

Area 2 - Fourteenth Amendment Procedural Guarantees and Suspension and the following components:

Suspension mentioned

Suspension limited

Grounds for suspension listed

Grounds listed as violation of rules

Grounds listed as disruptive conduct

Grounds listed as disobedience/defiance/insubordination

Grounds listed as endangering or assaulting pupils/personnel

Grounds listed ascausing damage to school or property

Grounds listed as use of profanity/vulgarity

Grounds listed as immorality

Grounds listed as possession of weapons/firearms

Grounds listed as conviction of crime

Grounds listed as other

Suspensions - local option

Suspensions limited to statutory provisions

Suspension procedures statutorily prescribed

Suspension procedures local option

Procedures required - hearing

Procedures required - notice

Procedures required - conference

Preocedures required - appeal permitted

Authority to suspend - board of education

Authority to suspend - superintendent

Authority to suspend - principal

Area 3 - Eighth and Fourteenth Amendment Regulatory Guarantees and Corporal Punishment and the following components:

Corporal punishment - specifically authorized

Corporal punishment - specifically prohibited

Corporal punishment permitted under right of loco parentis or other grounds

Schools function under state rules regarding corporal punishment

Schools function under local option regarding corporal punishment

Corporal punishment administered by teacher

Corporal punishment administered by principal

Corporal punishment administered by school administrator

Corporal punishment administered by certificated personnel

Corporal punishment administered by others - aides/student teachers/bus drivers/other supervisors of pupils

Restrictions on use of corporal punishment

Witness required

Written report/oral report required

The first area consisted of Freedom of Speech and Expression, Student Rights, and Search and Seizure as they applied to constitutional guarantees found in the First and Fourth Amendments. The second area consisted of Suspensions and the right of procedural due process, as found in the Fourteenth Amendment. The third and final area consisted of Corporal Punishment and regulatory guarantees as dealt with by the Eighth and Fourteenth Amendments. These areas were chosen since they reflected the three areas under consideration as a result of the three landmark cases decided by the United States Supreme Court. It was important for the purposes of this study to understand the decisions of the United States Supreme Court with respect to the issues under consideration.

The first landmark case dealing with the right of students and the disciplinary process, Tinker v. Des Moines, was decided in 1969 and established the right of public school students to exercise free speech and expression while at school, as guaranteed by the First Amendment to the United States Constitution. The Court noted:

> School officials do not possess absolute authority over their students. Students in school as well as out of school are "persons" under our constitution. They are possessed of fundemental rights which the State must respect . . . In the absence of a specific showing of constitutionally valid reasons to regulate their speech, students are entitled to freedom of expression of their views (56, 1977, p.128).

The Court also noted that the constitutional rights of students do not end at the schoolhouse door (56, 1977, p.138) and as a result, Search and Seizure was included in the area of consideration as well as free speech and the right to be free of dress codes absent a showing of disruption.

The second case under consideration, Goss v. Lopez, arose out of a Fourteenth Amendment issue which involved suspension of students from public school and the procedural due process guarantees to which they were entitled under the Fourteenth Amendment when a protected liberty interest was at stake. Said the Court:

> Having chosen to extend the right to an education, Ohio may not withdraw that right on grounds of misconduct absent fundementally fair procedures to determine whether the misconduct occurred (56, 1977, p.178).

The third and final case, Ingraham v. Wright, decided in 1977, dealt with the constitutionality of corporal punish-

ment as a disciplinary tool, which arose out of consideration of the Eighth Amendment's prohibition against cruel and unusual punishment and the Fourteenth Amendment's requirement of due process similar to the one raised in Goss. The Court decided, however, that

> we adhere . . . and hold that the Eighth Amendment does not apply to the paddling of children as a means of maintaining discipline in public schools (50, 1977, p.725).

With regard to the Fourteenth Amendment, the Court stated:

> We conclude that the Due Process Clause doe not require notice and a hearing prior to the imposition of corporal punishment in the public schools as that practice is authorized and limited by the common law (50, 1977, p.722).

The analysis of the statutory codes was then conducted by means of a word analysis, to determine if the Supreme Court requirements were met by the 50 states as reflected in the codes.

Treatment

This study was descriptive in nature and therefore, statistical analysis was limited to a systematic description of statutory enactment. Each statutory description was listed and an analysis was then compiled.

The historical origins of the codes of the 50 states were investigated by means of the related literature. The constitutional requirements as set down by the United States Supreme

Court in the three landmark cases under consideration were analyzed as they appeared in the Lawyer's Edition of the Supreme Court reports. The results of the analysis were then compared with the statutes to determine if there was conformity to Court requirements.

The process of legislative analysis was conducted by an examination of digest entries of legislative histories and the "shapardizing" of the various statutes. The results are reported in Chapter 4.

Summary

Chapter 3 was devoted to an explanation of the methodology used in this study. The study progressed from the determination of the utilization of the Clark County School District profile on student rights and the disciplinary process as developed by data compiled for selected school districts. Lastly, the study moved into the sphere of statutory law.

Finally, the study proposed adjustments to existing statutory law in order to cope with what have become issues of controversy. Chapter 4 reported on the findings of the application of this methodology, thus forming the foundation upon which the conclusions and recommendations in Chapter 5 were based.

Chapter 4

REPORT OF FINDINGS

Introduction

The intent of this study was to determine the extent to which the statutes of all 50 states provided for student rights and the disciplinary process in conformance with the decisions of the United States Supreme Court, specifically, with the decisions of the Supreme Court in three landmark cases which dealt with the subject of student rights and the disciplinary process. In order to accomplish this goal, several steps were taken.

An analysis of rules and regulations affecting the rights of students and the disciplinary process of eight selected school districts from across the nation was done. These rules and regulations included those now in force in Clark County, Nevada. This analysis produced a list of five different areas representative of the rights and responsibilities of students. In order to provide structure and focus to the list, the various rights and responsibilities were organized into three main areas and the attendant sub-areas.

Within the three main areas, First and Fourth Amendment Constitutional Guarantees, Suspension and Fourteenth Amendment Procedural Guarantees and Corporal Punishment and Eighth and Fourteenth Amendment Regulatory Guarantees, five main sub-areas were identified:

1. Freedom of Speech and Expression
2. Dress Code
3. Search and Seizure
4. Suspension and Due Process
5. Corporal Punishment

Only those rights and responsibilities which had a bearing to the Supreme Court decisions under consideration were analyzed for inclusion in this chapter.

Part I of Chapter 4 focused on the issues of the rights and responsibilities of students as found in the sample school district listings. Part II of Chapter 4 focused on the rights and responsibilities of students as found in the codes of the 50 states. Part III analyzed the findings reported in Part II. Table 1 shows areas of rights and responsibilities. An "x" indicates the sample rights or responsibility addressed in a particular area.

Part I

Area I - First and Fourth Amendment Consitutional Guarantees

In this area, all selected school districts addressed the issue of student rights. The three major components addressed were: Freedom of Speech and Expression, Dress Code, and Search and Seizure. All but Clark County permitted freedom of speech and expression, although Clark County did not prohibit expression by students. Six school districts listed dress code as a component of student rights, while two others did not mention it. Clark and Dade Counties required a dress code, while the others who mentioned it did not, although they also placed restrictions on clothing that was deemed to be disruptive.

Table 1. First and Fourth Amendment Constitutional Guarantees

CONSTITUTIONAL GUARANTEES	STUDENT RIGHTS ADDRESSED		FREEDOM OF SPEECH AND EXPRESSION					DRESS CODE					SEARCH AND SEIZURE					
	Yes	No	Defined	Not Defined	Permitted	Not Permitted	Limitations If Any	Required	Not Required	Not Mentioned	Exceptions Allowed If Requested	Limitations If Not Required	Property Authorized	Property Not Authorized	Body Authorized	Body Not Authorized	Witness Required	Not Addressed
CLARK COUNTY, NV	x			x			x	x			x		x		x*		x	
DADE COUNTY, FA	x		x		x		x	x						x				x
EVANSTON, IL	x		x		x		x			x								x
FLINT, MICH	x		x		x		x		x			x						x
MONTGOMERY COUNTY, MD	x		x		x		x		x			x						x
NEW YORK CITY, N.Y.	x		x		x		x		x			x						x
PHILADELPHIA, PA	x		x		x		x			x								x
SAN FRANCISCO, CA	x		x		x		x		x			x		x	x			
TOTAL	8	0	7	1	7	0	8	2	4	2	1	4	1	2	2	0	1	6

*PERMITTED UNDER CERTAIN CONDITIONS

Three school districts addressed the issue of search and seizure as a component of student rights. One district, San Francisco, did not permit it, while the others, Clark and Dade Counties, permitted searches of student's lockers and of their persons but only under certain conditions.

Four districts were specific in their language regarding student rights and constitutional guarantees. A sample statement from Evanston, Illinois indicated this type of specifity:

> Subject to the procedures and general limitations provided, students . . . may express opinions and ideas, take stands and support causes, publicly and privately orally or in writing. Such actions shall be referred to herein as "protected activities." There may be no interference with these protected activities based on the belief that any particular idea, opinion or position is unpopular or is contrary or offensive to community opinion or taste.

Cities which used specific language in defining the constitutional guarantees aspect of student rights were: Evanston, Illinois; Philadelphia, Pennsylvania; San Francisco, California; and Dade County, Florida.

Table 2 reflects Suspension and Fourteenth Amendment Procedural Guarantees as found in the selected districts rules and regulations.

Area 2 - Suspension and Fourteenth Amendment Procedural Guarantees

Six of the selected school districts addressed the issue of suspension as a component of student rights. Only San Francisco did not address itself to the issue of suspension and Clark and Dade Counties were specific in dealing with the issue. A sample statement from Clark County showed the use of specific language:

Table 2. Fourteenth Amendment Procedural Guarantees - Suspension

PROCEDURAL GUARANTEES	Is Suspension addressed		Is Hearing Required Prior To Suspension		Are There Limitations Imposed		Who Is Authorized To Suspend		Are Grounds For Suspension Spelled Out		Are Procedures Listed		Are Appeals Permitted	
	Yes	No	Yes	No	Yes	No	Admn.	Tchr.	Yes	No	Yes	No	Yes	No
CLARK COUNTY, NV	x		x		x		x		x		x			x
DADE COUNTY, FA	x		x		x		x		x		x		x	
EVANSTON, IL	x					x	x		x		x		x	
FLINT, MI	x		x			x				x		x		
MONTGOMERY COUNTY, MD	x				x					x		x	x	
NEW YORK CITY, NY	x		x			x				x	x		x	
PHILADELPHIA, PA			x			x				x		x		
SAN FRANCISCO, CA		x												
TOTAL	6	1	5	0	3	4	3	0	3	4	4	3	4	1

> If after investigating the situation, the administration decides it may be necessary to formally suspend the student from school, the parent should be contacted immediately by phone . . . and notified that their son/daughter is being considered for formal suspension.

Area 3 - Corporal Punishment and Eighth and Fourteenth Amendment Regulatory Guarantees

While corporal punishment was often regarded as a controversial issue, four of the selected school districts addressed the subject. One school district, San Francisco, did not mention the subject specifically, but forbids the use of what is termed "cruel and unusual punishment." Clark County is specific in its language regulating the use of corporal punishment. A sample of specific language was:

> Corporal punishment shall be administered by a teacher or school official, who must be told in the presence of the student the reason for the punishment before the punishment is administered.

Table 3 reflects Corporal Punishment and Eighth and Fourteenth Amendment Regulatory Guarantees as found in the selected district rules and regulations.

The following represents, the final list of the components of student rights and responsibilities.

1. First and Fourth Amendment Constitutional Guarantees
   - Freedom of Speech and Expression
   - Dress Code
   - Search and Seizure
2. Fourteenth Amendment Procedural Guarantees - Suspensions and Due Process

Table 3. Eighth and Fourteenth Amendment Regulatory Guarantees - Corporal Punishment

REGULATORY GUARANTEES	Is Corporal Punishment Mentioned		Is Corporal Punishment Defined		Is Corporal Punishment Authorized		Corporal Punishment Administered By		Are There Restrictions		Witness Required		Are Procedures Spelled Out	
	Yes	No	Yes	No	Yes	No	Admn	Tchr	Yes	No	Yes	No	Yes	No
CLARK COUNTY, NV	x		x		x		x	x	x		x		x	
DADE COUNTY, FA	x		x		x		x	x	x		x		x	
EVANSTON, IL		x												
FLINT, MI		x												
MONTGOMERY COUNTY, MD		x												
NEW YORK CITY, NY		x												
PHILADELPHIA, PA	x			x	x		x	x		x		x		x
SAN FRANCISCO, CA	x		x			x								
TOTAL	4	4	3	1	3	1	3	3	2	1	2	1	2	1

- Hearings required
- Limitations on Suspensions
- Grounds for Suspension
- Procedures for Suspension

3. Eighth and Fourteenth Amendment Regulatory Guarantees and Corporal Punishment

- Corporal Punishment authorized
- Grounds for Corporal Punishment
- Procedures for Corporal Punishment
- Restrictions on Corporal Punishment

Part II

Table 4 indicates that total number of states which provided for the rights and responsibilities of students as a result of the three Supreme Court cases under consideration. This total number was determined by using a word analysis of the statutory language addressing the areas under review. An "x" indicates that the state statute, through the language used, addressed the particulars found in each of the areas selected for consideration.

Area 1 - First and Fourth Amendment Constitutional Guarantees

Freedom of speech and expression. Two states (4 percent) of all 50 states addressed the issue of a student's right to freedom of speech and expression.

Student rights. Three states (6 percent) of all 50 states, while not specifically establishing statutory rights of students, specifically authorized the state boards of education to establish rules pertaining to student rights.

Search and Seizure. Four states (8 percent) addressed the issue of search and seizure of students and their property. This area of consideration was not specifically addressed in all 50 state

Table 4. First and Fourth Amendments Constitutional Guarantees

AREA 1	First Amendment Freedom of Speech	Students' Rights	Search and Seizure
California	x		
Indiana		x	
Louisiana			x
Maryland			x
Massachusetts	x		
Oklahoma			x
Oregon		x	x
South Dakota		x	
Wisconsin		x	

statutes. A total of nine states (18 percent) had anything whatsoever to say about constitutional guarantees and the rights of students. Massachusetts was one of only two states to address the issue specifically:

> § 82 - The right of students to freedom of expression in the public schools of the Commonwealth shall not be abridged; provided that such right shall not cause any disruption or disorder within the school. Freedom of expression shall include without limitation, the rights and responsibilities of students, collectively and individually, (a) to express their views through speech and symbols, (b) to write, publish and disseminate their views, (c) to assemble peacebly on school property for the purpose of expressing their opinions. Any assembly planned by students during regularly scheduled school hours shall be held only at a time and place approved in advance by the school principal or his designee (95, 1972, p.632).

Other states addressing at least on component of constitutional guarantees of students were as follows:

California	Oklahoma
Indiana	Oregon
Louisiana	South Dakota
Maryland	Wisconsin

Area 2 - Suspension and Fourteenth Amendment Procedural Guarantees

Suspensions. 46 (92 percent) of all 50 states addressed the rights of a school to discipline a pupil by excluding him from attending, i.e., suspending him.

Limitations on suspensions. Twenty-six states (54 percent) of all 50 states addressed this issue by limiting the amount of time that a student could be excluded from school.

Statutory grounds listed for suspension. Thirty-four states (68 percent) of all 50 states listed grounds for which a student could be excluded.

Violation of rules. Fifteen states (30 percent) of all 50 states listed violation of rules as a cause for suspension from school.

Disruptive conduct. Thirteen states (26 percent) of all 50 states listed disruptive conduct as a cause for suspension.

Disobedience/defiance/insubordination. Seventeen states (34 percent) of all 50 states listed disobedience, defiance or insubordination as a cause for suspension.

Endangering others. Ten states (20 percent) of all 50 states listed the endangerment of others as a cause for suspension.

Causing damage to property. Eleven states (22 percent) of all 50 states listed causing damage to property as a cause for suspension.

Use of profanity or vulgarity. Five states (10 percent) of all 50 states listed use of profanity or vulgarity as a cause for suspension.

Immorality. Nine states (18 percent) of all 50 states listed immorality as a cause for suspension.

Possession or use of drugs. Four states (8 percent) of all 50 states listed the use or possession of drugs as a cause for suspension.

Possession of weapons/firearms. Four states (8 percent) of all 50 states listed the use or possession of weapons or firearms as a cause for suspension.

Conviction of a crime. Three states (6 percent) of all 50 states listed conviction of a crime as a cause for suspension.

Other causes. Twenty states (40 percent) listed other reasons than those enumerated as a cause for suspension.

Suspension as a local option. Fifteen states (30 percent) of all 50 states provided for local school districts to determine the grounds sufficient for suspension.

Suspension limited to statutory provisions. Twenty-seven states (54 percent) of all 50 states allowed for the suspension of students only for violation of statutory provisions.

Procedural grounds listed. Twenty-seven (54 percent) of all 50 states provided for procedures which must be adhered to in student suspension cases.

Procedural grounds as a local option. Ten states (20 percent) of all 50 states allowed for local districts to establish procedural grounds in student suspension cases.

Hearings required in suspension cases. Nineteen states (38 percent) of all 50 states required hearings to be held prior to or immediately following the suspension of a student.

Notice required in suspension cases. Twenty-one states (42 percent) of all 50 states required notice to be given in suspension cases.

Conference required. Five states (10 percent) of all 50 states required a conference to be held in student suspension cases.

Appeal provided for. Nine states (18 percent) of all 50 states provided for an appeals process in student suspension cases.

Boards of education authorized to suspend. Ten states (20 percent) of all 50 states provided for local boards of education to suspend directly or to authorize others to do so.

Superintendents authorized to suspend. Twelve states (24 percent) of all 50 states authorized a superintendent to suspend a student from school.

Principals authorized to suspend. Twenty-six states (52 percent) of all 50 states authorized a school principal to suspend a student from school.

The area of Procedural Guarantees in suspension cases was more significantly addressed than that of the other two issues in all 50 states.

Virginia statutes provided clear guidelines, which covered in concise form all the necessary and required rules and regulations pertaining to suspension and procedural due process:

> § 22.1-277. Suspension and expulsion of pupils; generally.
> A. Pupils may be suspended or expelled from attendance at school for sufficient cause.
> B. A pupil may be suspended for not more than ten school days by either the school principal, any assistant principal or in their absence any teacher. The principal, assistant principal or teacher may suspend the pupil after giving the pupil oral or written notice of the charges against him and, if he denies them, an explanation of the facts as known to school personnel and an opportunity to present his version of what occured; provided that in the case of any pupil whose presence poses a continuing danger to persons or property or an ongoing threat of disruption, the pupil may be removed from school immediately and the notice, explanation of facts and opportunity to present his version given as soon as practicable thereafter. Upon suspension of any pupil, the principal, assistant principal or teacher responsible for such suspensions shall report the facts of the case in writing to the division superintendent or his designee and the parent or person in loco parentis of the pupil suspended. The division superintendent or his designee shall review forthwith the action taken by the princi-

> pal, assistant principal, or teacher upon a petition for such review by an party in interest and act as to confirm or disapprove such action based on an examination of the record of the pupil's behavior. The decision of the division superintendent or his designee may be appealed to the school board or a committee thereof in accordance with regulations of the school board.
> C. Pupils may be suspended for in excess of ten school days or expelled from attendance at school after written notice to the pupil and his parent or guardian of the proposed action and the reasons therefore and of the right to a hearing before the school board or a committee thereof in accordance with regulations of the school board. If the regulations provide for a hearing by a committee of the school board, the regulations shall also provide for an appeal of the committee's decision to the full board. (Code 1950 § 22-230.1, 22-230.2, 1972, c. 604; 1980, c. 559.)

Table 5 reflects Suspension and Fourteenth Amendment procedural guarantees.

Area 3 - Corporal Punishment and Eighth and Fourteenth Amendment Regulatory Guarantees

Corporal punishment specifically authorized. Seventeen states (34 percent) of all 50 states specifically authorized the use of corporal punishment.

Corporal punishment specifically prohibited. Three states (6 percent) of all 50 states specifically prohibited the use of corporal punishment.

Corporal punishment permitted under right of loco parentis or other ground. Thirty states (60 percent) of all 50 states permitted the use of corporal punishment under the doctrine of loco parentis or some other statutory ground.

Schools function under local option regarding corporal punishment. Thirty-three states (66 percent) of all 50 states allow for local option regarding the use of corporal punishment.

Table 5. Suspension and Fourteenth Amendment Procedural Guarantees

	ALABAMA	ALASKA	ARIZONA	ARKANSAS	CALIFORNIA	COLORADO	CONNECTICUT	DELAWARE	FLORIDA	GEORGIA	HAWAII	IDAHO	ILLINOIS	INDIANA	IOWA	KANSAS	KENTUCKY	LOUISIANA	MAINE	MARYLAND	MASSACHUSETTS	MICHIGAN	MINNESOTA	MISSISSIPPI	MISSOURI	MONTANA	NEBRASKA	NEVADA	NEW HAMPSHIRE	NEW JERSEY	NEW MEXICO	NEW YORK	NORTH CAROLINA	NORTH DAKOTA	OHIO	OKLAHOMA	OREGON	PENNSYLVANIA	RHODE ISLAND	SOUTH CAROLINA	SOUTH DAKOTA	TENNESSEE	TEXAS	UTAH	VERMONT	VIRGINIA	WASHINGTON	WEST VIRGINIA	WISCONSIN	WYOMING	TOTAL	PERCENT
Suspension Mentioned	X	X	X	X	X	X	X		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	46	92
Suspension/ Limited to Specific Number Of Days				X	X	X	X		X	X		X		X		X			X	X			X	X		X	X		X			X	X							X		X						X	X	X	26	52
Grounds for Suspension Listed		X	X	X	X	X	X		X	X			X	X		X	X	X				X	X	X	X	X	X		X	X		X	X	X		X	X	X			X	X					X	X	X	X	34	68
Grounds Listed As Violation Of Rules							X						X	X	X	X	X	X	X				X			X	X						X			X					X									X		15	30
Grounds Listed As Disruptive Conduct				X	X	X	X					X	X			X												X			X			X								X							X			13	26
Grounds Listed As Disobedience/ Defiance/ Insubordination		X		X	X									X		X	X	X				X	X			X				X			X			X						X									X	17	34
Grounds Listed As Endangering/ Assaulting Pupils/ Personnel					X		X							X				X					X			X				X			X																		10	20
Grounds Listed As Causing Damage To School/Property			X		X		X							X			X	X				X				X				X													X								X		11	22
Grounds Listed As Use Of Profanity/ Vulgarity					X												X	X																		X							X										5	10
Grounds Listed As Immorality		X		X								X			X			X											X						X												X						9	18

Table 5. (continued)

	ALABAMA	ALASKA	ARIZONA	ARKANSAS	CALIFORNIA	COLORADO	CONNECTICUT	DELAWARE	FLORIDA	GEORGIA	HAWAII	IDAHO	ILLINOIS	INDIANA	IOWA	KANSAS	KENTUCKY	LOUISIANA	MAINE	MARYLAND	MASSACHUSETTS	MICHIGAN	MINNESOTA	MISSISSIPPI	MISSOURI	MONTANA	NEBRASKA	NEVADA	NEW HAMPSHIRE	NEW JERSEY	NEW MEXICO	NEW YORK	NORTH CAROLINA	NORTH DAKOTA	OHIO	OKLAHOMA	OREGON	PENNSYLVANIA	RHODE ISLAND	SOUTH CAROLINA	SOUTH DAKOTA	TENNESSEE	TEXAS	UTAH	VERMONT	VIRGINIA	WASHINGTON	WEST VIRGINIA	WISCONSIN	WYOMING	TOTAL	PERCENT
Grounds Listed As Possession Of Drugs					X				X					X				X																																	4	8
Grounds Listed As Possession Of Weapons/Firearms					X				X					X				X																																		4	8
Grounds Listed As Conviction Of Crime		X																X																								X									3	6
Grounds Listed As Other			X		X	X			X	X		X	X	X		X		X	X			X			X		X			X				X	X	X														20	40
Suspensions-Local Option										X		X	X							X				X	X			X		X				X			X	X	X						X	X	X				15	30
Suspensions Limited To Statutory Provisions		X	X	X	X	X	X						X	X	X	X	X	X			X	X	X	X		X	X		X	X		X		X						X	X						X	X	X	27	54
Suspension Procedures Statutorily Prescribed			X		X	X	X		X					X	X	X		X		X			X	X	X			X	X		X		X		X	X				X		X					X	X	X	27	54
Suspension Procedures Local Option	X									X		X					X									X					X		X				X									X					10	20
Procedures Required/Hearing			X		X	X								X		X		X		X				X	X			X	X			X			X											X		X	X	X	19	38
Procedures Required/ Notice						X	X	X		X				X	X	X		X					X		X			X	X			X		X	X	X				X						X		X	X	X	21	42
Procedures Required/ Conference					X															X			X						X																				X		5	10
Procedures Required/ Appeal					X					X								X		X				X											X												X				9	18
Authority To Suspend Board Of Education										X		X	X		X		X					X							X			X				X														X	10	20
Authority To Suspend/Superintendent			X										X		X								X	X	X				X			X				X														X	12	24
Authority To Suspend/ Principal			X		X	X	X		X			X		X	X			X		X			X	X	X	X				X		X	X		X	X													X	26	52

Teachers authorized to administer corporal punishment. Thirty-two states (64 percent) of all 50 states authorized teachers to administer corporal punishment.

Principals authorized to administer corporal punishment. Thrity-two states (64 percent) of all 50 states authorized principals to administer corporal punishment.

School administrators authorized to administer corporal punishment. Four states (8 percent) of all 50 states authorized school administrators to administer corporal punishment.

Certificated personnel authorized to administer corporal punishment. Seven states (14 percent) of all 50 states authorized certificated personnel to administer corporal punishment.

Others authorized to administer corporal punishment. Three states (6 percent) of all 50 states authorized other classes of personnel to administer corporal punishment such as bus drivers and student teachers.

Restrictions on use of corporal punishment. Six states (12 percent) of all 50 states placed restrictions on the use of corporal punishment such as required parental consent.

Witness required for the administration of corporal punishment. Three states (6 percent) of all 50 states required a witness to be present before corporal punishment could be administered.

Report required when corporal punishment is administered. Four states (8 percent) required a report to be made whenever corporal punishment is administered.

Georgia statutes addressed the problem and most of its components in a specific manner, to wit:

Part 2
Discipline

Subpart I
Corporal Punishment

20-2-730
320a35 Corporal punishment of students
All area, county, and independant boards of education shall be authorized to determine and adopt policies and regulations relating to the use of corporal punishment by school principals and teachers employed by such boards.
(Acts 1964, p. 673.)

20-2-731.
32-836 Same: method of administering punishment
An area, county, or independent board of education may, upon the adoption of written policies, authorize any principal or teacher employed by the board to administer, in the exercise of his sound discretion, corporal punishment an any pupil or pupils placed under his supervision in order to maintain proper control and discipline. Any such authorization shall be subject to the following requirements:

(1) The corporal punishment shall not be excessive or unduly severe.

(2) Corporal punishment shall never be used as a first line of punishment for misbehavior unless the pupil was informed beforehand that specific misbehavior could occasion its use; provided, however, that corporal punishment may be employed as a first line of punishment for those acts of misconduct which are so antisocial or disruptive in nature as to shock the conscience;

(3) Corporal punishment must be administered in the presence of a principal or assistant principal, or the designee of the principal or assistant principal, employed by the board of education authorizing such punishment, and the other principal or assistant principal, or the designee of the principal or assistant principal, must be informed beforehand and in the presence of the pupil of the reason for the punishment;

(4) The principal or teacher who administered corporal punishment must provide the child's parent, upon request a written explanation of the reasons for the punishment and the name of the principal or assistant principal, or designee of the principal or assistant principal, who was present; provided, however, that such an explanation shall not be used as evidence in any subsequent civil action brought as a result of the corporal punishment; and

(5) Corporal punishment shall,not be administered to a child whose parents or legal guardian has upon the day of enrollment of the pupil filed with the principal of the school a statement from a medical doctor licensed in Goergia stating that it is detrimental to the child's mental or emotional stability.
(acts 1964, pp. 673, 674; 1977, p. 1290, eff. July 1, 1977.)

20-2-732
32-837 Same; exemption of principals and teachers from legal action.
No principal or teacher who shall administer corporal punishment to a pupil or pupils under his care and supervision in conformity with the policies and regulations of the area, county, or independent board of education employing him and in accordance also with this subpart shall be held accountable or liable in any criminal or civil action based upon the administering of corporal punishment where the corporal punishment is administered in good faith and is not excessive or unduly severe. (acts 1964, pp.673,674.)

Table 6 reflects Corporal Punishment and Eighth and Fourteenth Amendments Regulatory Guarantees.

Part III

Two of the three areas under consideration were mentioned frequently in the statutes of all 50 states; one was not. The following is the breakdown:

Area 1 - First and Fourth Amendment Constitutional Guarantees - 18 percent.

Area 2 - Fourteenth Amendment Procedural Guarantees - Suspension and Due Process - 92 percent.

Area 3 - Eighth and Fourteenth Amendments Regulatory Guarantees and Corporal Punishment - 94 percent.

Although some of the components were addressed more frequently than others in the area of due process and suspensions, as a whole, more states devoted statutory language to this issue than either of the other two. This was not surprising when considered with the instructions of the United States Supreme Court which spoke out for the first time regarding student discipline in the case of Goss v. Lopez (419 U.S. 565):

Table 6. Corporal Punishment and Eighth and Fourteenth Amendment Regulatory Guarantees

	ALABAMA	ALASKA	ARIZONA	ARKANSAS	CALIFORNIA	COLORADO	CONNECTICUT	DELAWARE	FLORIDA	GEORGIA	HAWAII	IDAHO	ILLINOIS	INDIANA	IOWA	KANSAS	KENTUCKY	LOUISIANA	MAINE	MARYLAND	MASSACHUSETTS	MICHIGAN	MINNESOTA	MISSISSIPPI	MISSOURI	MONTANA	NEBRASKA	NEVADA	NEW HAMPSHIRE	NEW JERSEY	NEW MEXICO	NEW YORK	NORTH CAROLINA	NORTH DAKOTA	OHIO	OKLAHOMA	OREGON	PENNSYLVANIA	RHODE ISLAND	SOUTH CAROLINA	SOUTH DAKOTA	TENNESSEE	TEXAS	UTAH	VERMONT	VIRGINIA	WASHINGTON	WEST VIRGINIA	WISCONSIN	WYOMING	TOTAL	PERCENT
Corporal Punishment/ Specifically Authorized				X	X			X	X	X								X		X		X				X		X				X		X		X				X			X	X					17	34
Corporal Punishment/ Specifically Prohibited											X										X								X																						3	6
Corporal Punishment/ Permitted Under Right Of Loco Parentis Or Other Grounds	X	X	X			X	X					X	X	X	X	X	X		X				X	X	X		X		X		X	X		X		X					X	X	X				X	X	X	X	30	60
School Function Under State Rules Regarding Corporal Punishment									X	X	X							X		X	X	X						X		X		X		X						X					X	X					14	28
Schools Function Under Local Option Regarding Corporal Punishment	X	X	X	X	X	X	X	X				X	X	X	X	X	X					X	X	X	X	X	X		X		X	X		X		X	X	X			X		X	X				X	X	X	X	33	66
Corporal Punishment Administered By Teacher						X		X	X	X		X	X	X	X	X	X	X				X	X			X		X	X		X	X	X	X	X	X	X				X	X	X				X	X			32	64
Corporal Punishment Administered By Principal						X		X	X	X		X	X	X	X	X		X				X	X			X		X	X		X	X	X	X	X	X	X	X			X	X	X	X				X	X			32	64
Corporal Punishment Administered By School Administrator																															X	X								X											4	8
Corporal Punishment Administered By Certificated Personnel					X								X					X										X				X		X		X																7	14
Corporal Punishment Administered By Others/ Aides/Student Teachers/ Bus Drivers/Any Supervisor Of Pupils																																X		X						X											3	6
Restrictions On Use Of Corporal Punishment					X				X	X	X															X		X																							6	12
Witness Required									X	X																X																									3	6
Written Report/ Oral Report Required									X	X																X		X																							4	8

> If the suspension is for 10 days (this) is a serious event in the life of the suspended child. Neither the property interest in educational benefits temporarily denied nor the liberty interest in reputation, which is also implicated, is so insubstantial that suspensions may constitutionally be imposed by any procedure the school chooses, no matter how arbitrary. (56, 1977, p.139).

The Court further noted in the Gault case: "Whatever may be their precise impact, neither the Fourteenth Amendment nor the Bill of Rights is for adults alone." (48, 1967, p.5).

It was also not surprising in view of the fact that for the most part suspensions were imposed for violation of school rules, and violation of school rules ranked second in a survey conducted by the National Association of Secondary School Principals in 1974, the same year the Goss case was heard by the Supreme Court (52, 1975, p.2).

Below, in order of mention, is the list of major problems in tha nation's public schools as listed in the study of the National Association of Secondary School Principals (52, 1975, p.1):

1. Student Vandalism and Violence
2. Defiance by Students; Ignoring Rules.
3. Lack of Time (or wasted time; neglect of studies)
4. Smoking
5. Absenteeism

The issue of discipline has become a major problem in the nation's schools and as a result states have taken a tough attitude toward unruly students. On a statutory basis, this has meant that states took discipline out of the hands of local districts and wrote rules which, in some cases, specifically prohibited local districts from modifying or otherwise interferring with state statutory grants. An example is North Carolina:

Article 27 § 115 C-390 - School Personnel May Use Reasonable Force.

> Principals, teachers, substitute teachers, voluntary teachers, teacher aids and assistants and student teachers in any public school of this State may use reasonable force in the exercise of lawful authority to restrain of correct pupils and maintain order.
>
> No local board of Education or district committee shall promulgate or continue in effect a rule, regulation or by-law which prohibits the use of such force as is specified in this section.

One thing is certain: the statutes in all 50 states were so diverse that no two were similar. Some statutes were explicit, as was North Carolina's, while others were vague with respect to grounds or procedures to be followed. An example of vagueness is Vermont's statute regarding suspensions:

> § 1162. Suspension or dismissal of pupils
> Vermont statutes
>
> A superintendent or principal may, pursuant to regulations adopted by the governing board, suspend, or with the approval or a majority of the members of the governing board of the school district, dismiss or expel a pupil for misconduct when the misconduct makes the continued presence of the pupil harmful to the welfare of the school. Nothing contained in this section shall prevent a superintendent or principal from removing immediately from a school a pupil who poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process of the school.-Amended 1977, No. 33 S 3; No. 130 (Adj. Sess.).

As shown in Vermont's code, grounds for suspension were not defined, except to state that pupils may be suspended for misconduct, itself an ambiguous phrase. Furthermore, the local governing boards were vested with authority, but no limitations were imposed on this authority.

There are, of course, different factors which control the passage of successful legislation. Social, religious, political and economic factors are but a few, and all are part of

the legislative process. According to Weiner (103, 1979, p. 94), the process of legislation in each state reflects to a large degree the passage or nonpassage of a bill. This would explain some of the diversity in state statutes in the area of student rights and the disciplinary process.

Another factor is the ability of the state to modify or revamp its code. A state like New York, with its diverse population and interest groups, cannot easily revamp its code. The result was an endless series of amendments to existing statutes which, in the field of education alone, cover several volumes. By contrast, Montana, sparsely populated and with few if any divergent political groups, was able to completely revamp its code, which it did in 1980, and contain the whole of it, education included, in one volume. It was also found that, particularly in the West, with the exception of California, the prevalent attitude has been to maintain the status quo and rely for the most part on what had existed in the past.

Two states, Maine and Rhode Island, had almost nothing to say about education statutorily, relying instead on common law principles and delegation of authority to other educational agencies. Two other states, New Mexico and Utah, had nothing to say about discipline, preferring instead to rely on the common law, as was the case with Utah, or to delegate that authority to the State Board of Education, as was the case with New Mexico.

It should be pointed out that although many aspects of

student rights and the disciplinary process were not covered statutorily, they were addressed by local administrative laws and regulations which have the force of law and without which the schools could not function, but which lacked the impact of statutory enactment.

Following the Supreme Court's Goss Decision in 1975, it was shown that a total of 46 states addressed the issue of suspension, with 27 states providing for statutory procedures in dealing with suspension. Another aspect of legislation, then, was a court decision, particularly a decision of the United States Supreme Court which had the impact of forcing legislative change in order to cause state statutory codes to conform with its decisions.

Mere passage however, does not guarantee that all ambiguity will be done away with. States like New Mexico which vested power in the State Board of Education did not have to deal with having their statutes declared vague or unconstitutional. Wiener (103, 1979, p.93) states that "the legislative community does not look favorably upon new legislation defining or establishing what appears to give new and broader based power to educators." However, in the areas of discipline, the less difinitive the legislation, the more power enjoyed by local school officials.

Chapter 5 will explore the summary, conclusions and recommendations for further study, as reflected in the findings of Chapter 4.

Chapter 5

SUMMARY, CONCLUSIONS AND RECOMMENDATIONS FOR FURTHER STUDY

Chapter 5 will present a summary of the findings of this study. Included in this summary are conclusions and recommendations for further study, plus sample models of laws felt to provide for a concise system of statutory enactment.

An Overview of the Study

The purpose of this study was to determine the extent to which the decisions of the United States Supreme Court, reflected in three landmark cases, were addressed in the statutes of all 50 states. Further, this study established the extent to which the decisions in these three landmark cases were defined legally in the statutes. Finally, the study advanced suggestions, additions, alterations or deletions which would serve as models for states wishing to provide clear and concise legislation in the field of student rights and the disciplinary process.

In order to achieve the purposes of this study, the following procedures were utilized. The rules and regulations regarding student rights and the disciplinary process of the Clark County School District were analyzed. Based on this analysis, the Nevada Revised Statutes (NRS) were analyzed to determine the extent to which the NRS provided for the statutory authority on which the Clark County rules and regulations were

based. From this foundation, the search was expanded to a sample of selected school districts to determine if the issues under consideration were addressed by the sample school districts. The purpose of this study was not to analyze the rules and regulations of the sample school districts but rather, to examine the rules and regulations for the sole purpose of determining if the three issues studied were mentioned.

The state statutes of all 50 states were then examined for the purpose of determining the extent to which the statutes conformed to the decisions of the United States Supreme Court. Based upon the search of the statutes of all 50 states and the decisions of the United States Supreme Court in the three landmark cases dealing with student rights and the disciplinary process, prototype bills were suggested for inclusion in the codes of all 50 states.

Summary of Findings

An examination of selected school districts' rules and regulations was conducted; 3 main areas and 11 component areas were identified as representative of the range of issues under consideration. These areas and their components were as follows:

Area 1 - First and Fourth Amendment Constitutional Guarantees

- Freedom of Speech and Expression
- Dress Code
- Search and Seizure

Area 2 - Fourteenth Amendment Procedural Guarantees- Suspension and Due Process

- Hearings required in Suspension cases
- Limitations on Suspensions
- Grounds listed for Suspensions
- Procedures listed for Suspensions

Area 3 - Eighth and Fourteenth Amendment Regulatory Guarantees and Corporal Punishment

- Corporal Punishment authorized
- Grounds for Corporal Punishment
- Procedures for Corporal Punishment
- Restrictions on Corporal Punishment

The list of component areas was compared to the state statutes of all 50 states. It was found that the first area was mentioned sparingly in the state statutes. The overall average for the first area was 6 percent, as computed from Table 4.

The second and third areas were mentioned most often in the state statutes of all 50 states: Area 2 was mentioned by 92 percent of the states and Area 3 was dealt with by 54 percent of the states.

Conclusions

The following conclusions were drawn from this study:

1. It may be concluded that the individual state statutes in all 50 states varied greatly. Some state codes provided for the legal rights of students in the exercise of their constitutional guarantees. Forty-seven states addressed at least one area of the three under consideration and most addressed two of the three areas. Some states mentioned the areas under consideration, but did not clearly state the grounds and procedures to be followed. Some states, while being more specific than others, did not differentiate between the various rules and procedures but stated them together under the

headings of discipline or pupil accountability. It can be concluded that there is no consistant pattern of statutory enactment throughout the country.

2. It may be concluded that many state statutes remained vague in that they failed to address the issue of student rights and the disciplinary process.

3. It may be concluded that many states did not make it clear who was to assume responsibility for dealing with the issues of student rights and the disciplinary process.

4. It may be concluded from statutory amendments of the codes of the 50 states that state legislatures had taken subsequent notice of the decisions of the United States Supreme Court in the area of student rights and the disciplinary process.

5. Legislation dealing with the issues under consideration were often found in the addendum sections of the codes, leading this writer to conclude that more states are dealing with these same issues and that many states, as they amend or revamp their codes, will provide for more specific guidelines.

6. It may be concluded that where clear and concise language dealt with student rights and the disciplinary process, there was less apparent room for litigation, thereby lessening the possibility of court litigation and the involvement of school officials in this litigation.

7. It may be concluded that where there is clear and concise statutory language regarding student rights and the disciplinary process, school officials are better equipped to cope

with the discipline at hand.

Recommendations for Further Study

The following recommendations for further study were made:

1. A complete examination of the grounds and procedures used in the disciplinary process in various school districts in the nation.

2. An examination of the various disciplinary means used in the public schools of this nation and perhaps in selected countries in the world to discern national and international trends.

3. A study of the effectiveness of the various disciplinary methods now in use with particular emphasis on suspension and corporal punishment.

4. A study which would undertake to develop alternative disciplinary methods for use by school officials.

5. A study which would undertake to examine the changes that have taken place as a result of court decisions in the area of student rights and discipline.

6. A study intended to trace the most effective and efficient disciplinary methods in line with constitutional mandates.

7. Development of specific legislation which would spell out the intention of the legislature in clear and concise terms for inclusion in the state code.

Unlike other studies, the purpose of this study was not to make a specific recommendation on the issues under consideration. In the disciplinary process, many value judgments are

made. Some states, as reflected by the will of their legislatures, had chosen for example, not to allow the use of corporal punishment as a disciplinary tool in their states. Other states, however, firmly believed in the use of corporal punishment as a necessary tool in the maintenance of discipline. It was not the intention of this author to propose the inclusion or deletion of one value over another; that is a decision that must be made by the people of the various states as represented by their state lawmakers. What this author does propose, however, is that whichever course is taken by the various states, that it be spelled out in legislation that is clear and concise and leaves no room for ambiguity.

Recommended Prototype Bills

The following prototype bills are suggested:

Student's Right to Freedom of Speech and Expression

> The right of students to freedom of speech and expression in the public schools of this state shall not be denied or abridged; provided that such right shall not cause any disruption or disorder within the school. Students shall have the right to express their views orally or in writing through speech and symbols. Any activity planned during regularly scheduled school hours shall be held only if approved by the principal or his designee.

Search and Seizure

For those states which permit searches of student lockers and property and wish to continue to do so, the following bills are suggested:

> The principal or his designee shall have the power to search without warrant and at any time, the locker or desk or other possession of a student if that possession is school property.
>
> No person authorized to conduct searches shall be held liable in the civil or criminal courts of this state and shall have immunity from such provided that he has acted in good faith.

For those states which propose to disallow searches, the following prototype bill is suggested:

> Students shall have the right to be secure in their possessions while at school. No employee of a public school in this state shall have the right to conduct a search of a student's locer, desk, or other place where he is entitled to secure his possessions except in cases of emergency or subsequent to a court order authorizing such search. However, where school authorities feel that a student's possessions need to be searched, they shall have the power to secure the student's possessions until such time as a proper warrant can be secured.

Suspension of Pupils from School

Concerning suspension of students from school, the following bills are suggested:

> A pupil may be suspended from school for sufficient cause. Sufficient cause is hereby defined as the violation of any rule, regulation or bylaw as set down by the local governing board of every school district in this state.
>
> A pupil may be suspended for not more than ten school days for any one offense. A pupil may be suspended by the principal of the school or his designee. A pupil who is to be suspended shall have the right to a hearing where he shall be given notice of the charges against him and an opportunity to explain his side of the story. The parents or legal guardians of the pupil shall be notified as soon as possible of the suspension. The parents or legal guardian shall have the right to appeal the suspension to the local governing board whose decision shall be final.
>
> However, in the case of a pupil whose presence poses a danger at the school, such pupil may be removed immediately and a hearing and notice to take place as soon as possible thereafter.

A pupil who is suspended shall not have the right to remain at school while his case is on appeal to the local governing board; however, the local governing board shall hear the appeal as soon as is practicably possible.

Corporal Punishment of Pupils

For those states which wish to discontinue the practice of corporal punishment within their borders, the following is suggested:

No one person employed or engaged in a school or educational institution, whether public or private, shall inflict or cause to be inflicted corporal punishment upon a pupil attending such school or institution.

Every resolution, bylaw, rule, ordinance or other act of authority permitting or authorizing corporal punishment to be inflicted upon a pupil attending a school or educational institution shall be void.

For those states which wish to permit corporal punishment on an optional basis, the following is suggested:

Every local governing board may promulgate rules and regulations authorizing or prohibiting the use of corporal punishment in the public or private schools of this state.

Where the governing board has not promulgated such rules or regulations, every teacher or other certificated personnel shall be authorized/prohibited to use corporal punishment. Whether in the public or private schools of this state, on said pupils.

For those states which wish to allow for corporal punishment on a statewide basis, the following is suggested:

All certificated personnel in the public or private schools of this state may use corporal punishment to restrain or correct pupils.

The infliction of corporal punishment shall be confined to the buttocks. Reasonable force, however, may be used to restrain pupils when such force is deemed necessary.

Anyone authorized to inflict corporal punishment or use reasonable force is hereby granted immunity from prosecution in the criminal or civil courts of this states.

No local board or governing agency shall promulgate or continue in effect a rule, regulation, ordinance or bylaw which prohibits the use of corporal punishment or other reasonable force is specified in the section. Any such

rule, regulation, ordinance or bylaw is hereby voided. Some of the more serious deletions which are necessary involve the use of such terms as are found, for example, in the NRS 392.465 2: ". . . the board of trustees of every school district shall adopt rules and regulations authorizing . . . corporal punishment."

Since it is the intent of the legislature, and indeed its mandate, that corporal punishment is to be authorized in the public schools of the State of Nevada, it ought to so state in the statutes themselves and not leave the promulgation of rules and regulations to the local trustees who may promulgate such rules and regulations which would have the effect of prohibiting corporal punishment. Furthermore, no mention is made of what would happen if the trustees do not promulgate such rules and regulations especially with regard to those authorized to inflict corporal punishment, if they are indeed then so authorized.

Another deletion, in the interest of fairness, would be made in the California statute which requires parental consent in writing before corporal punishment can be inflicted on their children in those districts which initially allow the use of corporal punishment. To allow parents to exempt their children from the regime to which some other children may be subject is inherently unfair. Parents should not be allowed to dictate directly to the school which forms of punishment are acceptable or which are not. In those districts of California where parents do not wish to have corporal punishment, they can see to

it that the local governing boards do not adopt rules authorizing the use of corporal punishment.

Other recommended deletions and changes would be to those statutes, such as those of Wyoming, which are not clear with respect to the language used: "21.1.64 . . . may impose reasonable forms of punishment and disciplinary measures . . ." The statute language does not clarify whether Wyoming considers, for example corporal punishment as a reasonable form of punishment or not, and that, in turn, can subject school officials to legal suits.

Final Comment

This dissertation addressed the issue of the constitutional rights of students and the disciplinary process. It is hoped that through this study, a better understanding of the need for adherence to constitutional requirements has been established.

Much valuable time is wasted by educators who find themselves involved in litigation. It is sincerely hoped that through this and other efforts, statutory guidelines will become clear and concise in order that educators will be able to devote their time to the business of educating students.

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APPENDIXES

APPENDIX A

APPENDIX A

The following are excerpts from the three landmark cases decided by the Supreme Court of the United States in the area of student rights and the disciplinary process.

Tinker v. Des Moines Independent Community School District, 393 U.S. 503 (1969).

I

Mr. JUSTICE FORTAS delivered the opinion of the Court.

Petitioner John F. Tinker, 15 years old, and petitioner Christopher Eckhardt, 16 years old, attended high schools in Des Moines. Petitioner Mary Beth Tinker, John's sister, was a 13 year old student in junior high school.

In December 1965, a group of adults and students in Des Moines, iowa, held a meeting at the Eckhardt home. The group determined to publicize their objections to the hostilities in Vietnam and their support for a truce by wearing black armbands during the holiday season and by fasting on December 16 and New Year's Eve. Petitioners and their parents had previously engaged in similar activities, and they decided to participate in the program.

The principals of the Des Moines schools became aware of the plan to wear armbands. On December 14, 1965, they met and adopted a policy that any student wearing an armband to school would be asked to remove it, and if he refused he would be suspended until he returned without the armband. Petitioners were aware of the regulation that the school authorities adopted.

On December 16, Mary Beth and Christopher wore black armbands to their schools. John Tinker wore his armband the next day. They were all sent home and suspended from school until they would come back without their armbands. They did not return to school until the planned period for wearing armbands had expired - that is, until after New Year's Day.

The complaint was filed in the United States District Court by petitioners, through their fathers, under § 1983 of Title 42 of the United States Code...After an evidentiary hearing the District Court dismissed the complaint. It upheld the constitutionality of the school authorities' action on the ground that it was reasonable in order to prevent disturbance of school discipline. 258 F. Supp. 971 (1966). The court referred to but expressly declined to follow the Fifth Circuit's holding in a similar case that prohibition of the wearing of symbols like the armbands cannot be sustained unless it "materially and substantially interfere[s] with the requirements of appropriate discipline in the operation of the school." Burnside v. Byars, 363 F. 2d 744, 749 (1966).

On appeal, the Court of Appeals for the Eighth Circuit considered the case *en banc*. The court was equally divided, and the District Court's decision was accordingly affirmed, without opinion...

First Amendment rights, applied in the light of the special characteristics of the school environment, are available to teachers and students. It can hardly be argued that either students or teachers shed their constitutional rights to freedom of speech or expression at the schoolhouse gate. This has been the unmistakable holding of this Court for almost 50 years...

On the other hand, the Court has repeatedly emphasized the need for affirming the comprehensive authority of the States and of school authorities, consistant with fundemental constitutional safeguards, to prescribe and control conduct in the schools...Our problem

lies in the area where students in the exercise of First Amendment rights collide with the rules of school authorities.

II

The problem presented by the present case does not relate to regulation of the length of skirts or the type of clothing, to hair style or deportment...It does not concern aggressive, disruptive action or even group demonstrations. Our problem involves indirect, primary First Amendment rights akin to "pure speech."

The school officials sought to punish petitioners for a silent, passive, expression of opinion, unaccompanied by any disorder or disturbance on the part of petitioners. There is no evidence whatever of petitioners' interference, actual or nascent, with the school's work or of collision with the rights of other students to be secure or to be let alone. Accordingly, this case does not concern speech or action that intrudes upon the work of the school or the rights of other students...

The District Court concluded that the action of the school authorities was reasonable because it was based upon their fear of a disturbance from the wearing of the armbands. But, in our system, undifferentiated fear of apprehension of disturbance is not enough to overcome the right of freedom of expression. Any departure from the majority's opinion may inspire fear. Any word spoken, in class, in the lunchroom or on the campus, that deviates from the views of another person, may start an argument or cause a disturbance. But our constitution says we must take this risk...

In order for the State in the person of school officials to justify prohibition of a particular expression of opinion, it must be able to show that its action was caused by something more than a mere desire to avoid the discomfert and unpleasantness that always accompany an unpopular viewpoint. Certainly where there is no finding and no showing that the exercise of the forbidden right would "materially and substantially interfere with the requirements of appropriate discipline in the operation of the school," the prohibition cannot be sustained...

In the present case, the District Court made no such finding, and our independent examination of the record fails to yield evidence that the school authorities had reason to anticipate that the wearing of the armbands would substantially interfere with the work of the school or impinge upon the rights of other students. Even an official memorandum prepared after the suspension that listed the reasons for the ban on wearing the armbands made no reference to the antcipation of such disruption.

On the contrary, the action of the school authorities appears to have been based upon the urgent wish to avoid the controversy which might result from the expression, even by the silent symbol of armbands, of opposition to this Nation's part in the confliaration in Vietnam. It is revealing, in this respect, that the meeting at which the school principals decided to issue the contested regulation was called in response to a student's statement to the journalism teacher in one of the schools that he wanted to write an article on Vietnam and have it published in the school paper. (The student was dissuaded.)

It is also relevant that the school authorities did not purport to prohibit the wearing of all symbols of political or controversial significance. The record shows that students in some of the schools wore buttons relating to national political campaigns, and some

even wore the Iron Cross, traditionally a symbol of nazism. The order prohibiting the wearing of armbands did not extend to these. Instead, a particular symbol - black armbands worn to exhibit opposition to this Nation's involvement in Vietnam - was singled out for prohibition. Clearly, the prohibition of expression of one particular opinion, at least without evidence that it is necessary to avoid material and substantial interference with school work or discipline, is not constitutionally permissible.

In our system, state-operated schools may not be enclaves of totalitarianism. School officials do not possess absolute authority over their students. Students in school as well as out of school are "persons" under our Constitution. They are possessed of fundemental rights which the State must respect. Just as they themselves must respect their obligations to the State. In our system, students may not be regarded as closed-circuit recipients of only that which the State chooses to communicate. They may not be confined to the expression of those sentiments that are officially approved. In the absence of a specific showing of constitutionally valid reasons to regulate their speech, students are entitled to freedom of expression of their views...

The principal use to which the schools are dedicated is to accommodate students during prescribed hours for the purpose of certain types of activities. Among those activities is personal intercommunication among the students. This is not only an inevitable part of the process of attending school. It is also an important part of the educational process. A student's rights therefore, do not embrace merely the classroom hours. When he is in the cafeteria, or on the playing field, or on the campus during the authorized hours, he may express his opinions , even on controversial subjects like the conflict in Vietnam, if he does so without "materially and substantially interfering with appropriate discipline in the operation of the school" and without colliding with the rights of others. But conduct by the student, in class or out of it, which for any reason - whether it stems from time, place, or type of behavior - materially disrupts classwork or involves substantial disorder or invasion of the rights of others is, of course, not immunized by the constitutional guaranty of freedom of speech.

Under our constitution, free speech is not a right that is given only to be so circumscribed that it exists in principle but not in fact. Freedom of expression would not truly exist if the right could be exercised only in an area that a benevolent government has provided as a safe haven for crackpots. The Constitution says that Congress (and the States) may not abridge the right to free speech. This provision means what it says. We properly read it to permit reasable regulation of speech-connected activities in carefully restricted circumstances. But we do not confine the permissible exercise of First Amendment rights to a telephone booth or the four corners of a pamphlet, or to supervised and ordained discussion in a school classroom.

If a regulation were adopted by school officials forbidding discussion of the Vietnam conflict, or the expression by any student of opposition to it anywhere on school property except as a part of a prescribed classroom exercise, it would be obvious that the regulation would violate the constitutional rights of students, at least if it could not be justified by a showing that the students' activities would materially and substantially disrupt the work and discipline of the school. In the circumstances of the present case, the prohibition of the silent, passive "witness of the armbands" as one of the children called it, is no less offensive to the Constitution's guaranties.

...We express no opinion as to the form of relief which should be granted, this being a matter for the lower courts to determine. We reverse and remand for further proceedings consistant with this opinion.

Reversed and remanded.

C. Goss v. Lopez, 419 U.S. 565 (1975).

Mr. JUSTICE WHITE delivered the opinion of the Court.

This appeal by various administrators of the Columbus, Ohio Public School Syatem (CPSS) challenges the judgment of a three-judge federal court, declaring that appelees - various high school students in the CPSS - were denied due process of law contrary to the command of the Fourteenth Amendment in that they were temporarily suspended from their high schools without a hearing either prior to suspension or within a reasonable time thereafter, and enjoining the administrators to remove all references to such suspensions from the students' records.

I

Ohio law, Rev. Code Ann § 3313.64 (1972) provides for free education to all children between the ages of 6 and twenty one. Section 3313.66 of the Code empowers the principal of an Ohio public school to suspend a pupil for misconduct for up to 10 days or to expel him. In either case, he must notify the student's parents within 24 hours and state the reasons for his action. A pupil who is expelled, or his parents, may appeal the decision to the Board of Education and in connection therewith shall be permitted to be heard at the board meeting. The board may reinstate the pupil following the hearing. No similar procedure is provided in § 3313.66 or any other provision of state law for a suspended student. Aside from a regulation tracking the statute, at the time of the imposition of the suspensions in this case the CPSS itself had not issued any written procedure applicable to suspensions. Nor, so far as the record reflects, had any of the individual high schools involved in this case. Each had, however, formally or informally described the conduct for which suspension could be imposed.

The nine named appellees, each of whom alleged that he or she had been suspended from public high school in Columbus for up to 10 days without a hearing pursuant to § 3313.66 filed an action aaginst the Columbus Board of Education and various administrators of the CPSS under 42 U. S. C. § 1983. The complaint sought a declaration that § 3313.66 was unconstitutional in that it permitted public school administrators to deprive plaintiffs of their rights to an education without a hearing of any kind, in violation of the procedural due process component of the Fourteenth Amendment. It also sought to enjoin the public school officials from issuing future suspensions pursuant to § 3313.66 and to require them to remove references to the past suspensions from the records of the students in question...

The three judge-court declared that plaintiffs were denied due process of law because they were "suspended without hearing prior to suspension or within a reasonable time thereafter," and that Ohio Rev. Code Ann. § 3313.66 (1972) and regulations issued pursuant thereto were unconstitutional in permitting such suspensions. It was ordered

that all references to plaintiffs' suspensions be removed from school files.

...The District Court declared that there were "minimum requirements of notice and a hearing prior to suspensions, except in emergency situations." In explication, the court stated that relevant case authority would: (1) permit [i]mmediate removal of a student whose conduct disrupts the academic atmosphere of the school, endangers fellow students, teachers or school officials, or damages property; (2) require notice of suspension proceedings to be sent to the student's parents within 24 hours of the decision to conduct them; and (3) require a hearing to be held, with the student present, within 72 hours of his removal. Finally, the court stated that, with respect to the nature of the hearing, the relevant cases required that statements in support of the charge be produced, that the student and others be permitted to make statements in defense or mitigation, and that the school need not permit attendance by councel.

The defendant school administrators have appealed the three-judge court's decision. Because the order below granted plaintiffs' request for an injunction - ordering defendants to expunge their records - this Court has jurisdiction of the appeal pursuant to 28 U. S. C. § 1253. We affirm.

II

At the outset, appellants contend that because there is no constitutional right to an education at public expense, the Due Process Clause does not protect aganist expulsions from the public school system. This position misconceives the nature of the issue and is refuted by prior decisions. The Fourteenth Amendment forbids the State to deprive any person of life, liberty, or property without due process of law. Protected interests in property are normally "not created by the Constitution. Rather, they are created and their dimensions are defined" by an independent source such as state statutes or rules entitling the citizen to certain benefits...

Here , on the basis of state law, appellees plainly had legitimate claims of entitlement to a public education...

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...The authority possessed by the State to prescribe and enforce standards of conduct in its schools although very broad, must be exercised with constitutional safeguards. Among other things, the State is constrained to recognize a student's legitimate entitlement to a public education as a property interest which is protected by the Due Process Clause and which may not be taken away for misconduct without adherence to the minimum procedures required by that Clause.

The Due Process Clause also forbids arbitrary deprivations of liberty. "Where a person's good name, reputation, honor or integrity is at stake because of what the government is doing to him," the minimal requirements of the Clause must be satidfied. School authorities here suspended appellees from school... If sustained and recorded, those charges would seriously damage the student's standing with their fellow pupils and their teachers as well as interfere with later opportunities...it is apparent that the claimed right of the State to determine unilaterally and without process whether that misconduct has

occurred immediately collides with the requirements of the Constitution.

Appellants proceeded to argue that even if there is a right to a public education protected by the Due Process Clause generally, the Clause comes into play only when the State subjects a student to a "severe deteriment or grievous loss."...The Court's view has been that as long as a property deprivation is not *de minimus*, its gravity is irrelevant to the question whether account must be taken of the Due Process Clause. A 10 day suspension from school is not *de minimus* in our view and may not be imposed in complete disregard of the Due Process Clause.

III

"Once it is determined that due process applies, the question remains what process is due." We turn to that question, fully realizing as our cases regularly due that the interpretation and application of the Due Process Clause are intensly practical matters and that "[t]he very nature of due process negates any concept of inflexible procedures universally applicable to every imaginable situation." We are also mindful of our own admonition that

> "Judicial interposition in the operation of the public school system of the Nation raises problems requiring care and restraint ...By and large, public education in our Nation is committed to the control of state and local authorities."

There are certain bench marks to guide us, however... At the very minimum, therefore, students facing suspension and the consequent interference with a protected property interest must be given *some* kind of notice and afforded *some* kind of hearing...The student's interest is to avoid unfair or mistaken exclusion from the educational process, with all of its unfortunate consequences. The Due Process Clause will not shield him from suspensions properly imposed, but it disserves both his interest and the interest of the State if his suspension is in fact unwarranted...

The difficulty is that our schools are vast and complex. Some modicum of discipline and order is essential if the educational function is to be performed...Suspension is considered not only to be a necessary tool to maintain order but a valuable educational device. The prospect of imposing eloborate hearing requirements in every suspension case is viewed with great concern... But it would be a strange disciplinary system in an educational institution if no communication was sought by the disciplinarian with the student in an effort to inform him of his dereliction and to let him tell his side of the story in order to make sure that an injustice is not done. "[F]airness can rarely be obtained by secret, onesided determination of facts decisive of rights... No better instrument has been devised for arriving at truth than to give a person in jeopardy of serious loss notice of the case against him and an opportunity to meet it."

We do not believe that school authorities must be totally free from notice and hearing requirements if their schools are to operate with acceptable efficiency. Students facing temporary suspensions have interests qualifying for protection of the Due Process Clause, and due process requires, in connection with a suspension of 10 days or less,

that a student be given oral or written notice of the charges against him and, if he denies them, an explanation of the evidence the authorities have and an opportunity to present his side of the story. The Clause requires at least these rudimentary precautions against unfair or mistaken findings of misconduct and arbitrary exclusion from school. There need be no delay between the time notice is given and the time of the hearing. In the great majority of cases the disciplinarian may informally discuss the alleged misconduct with the students minutes after it has occurred. We hold only that in being given an opportunity to explain his version of the facts at this discussion, the student first be told what he is accused of doing and what the basis of the accusation is...

In holding as we do, we do not believe that we have imposed procedures on school disciplinarians which are inappropriate in a classroom setting. Instead we have imposed requirements which are, if anything, less than a fair-minded school principal would impose upon himself in order to avoid unfair suspensions...

We stop short of constructing the Due Process Clause to require, countrywide, that hearings in connection with short suspensions must afford the students the opportunity to secure councel, to confront and cross-examine witnesses supporting the charge, or to call his own witnesses to verify his version of the incident... To impose in each such case even truncated trial-type procedures mught well overwhelm administrative facilities in many places and, by diverting resources cost more than it would save in educational effictiveness. Morover, further formalizing the suspension process and escalating its formality and adversary nature may not only make it too costly as a regular disciplinary tool but also destroy its effictiveness as part of the teaching process.

On the other hand, requiring effective notice and informal hearing permitting the student to give his version of the events will provide a meaningful hedge against erroneous action...

We should also make it clear that we have addressed ourselves solely to the short suspension, not exceeding 10 days. Longer suspensions or expulsions for the remainder of the school term, or permanently may require more formal procedures. Nor do we set aside the possibility that in unusual situations, although involving only a short suspension, something more than the rudimentary procedures will be required.

IV

The District Court found each of the suspensions involved here to have occurred without a hearing, either before or after the suspension, and that each suspension was therefore invalid and the statute unconstitutional insofar as it permits suspensions without notice or hearing. Accordingly, the judgment is *Affirmed.*

J. Ingraham v. Wright, 430 U.S. 651 (1977).

Mr. JUSTICE POWELL delivered the opinion of the Court.
This case presents questions concerning the use of corporal

punishment in public schools: First, whether the paddling of students as a means of maintaining school discipline constitutes cruel and unusual punishment in violation of the Eighth Amendment; and second, to the extent that paddling is constitutionally permissible, whether the Due Process Clause of the Fourteen Amendment requires prior notice and an opportunity to be heard.

I

...Petitioners' evidence may be summarized briefly. In the 1970-1971 school year many of the 237 schools in Dade County used corporal punishment as a means of maintaining discipline pursuant to Florida legislation and a local school board regulation. The statute then in effect authorized limited corporal punishment by negative inference, proscribing punishment which was "degrading or unduly severe" or which was inflicted without prior consultation with the principal or the teacher in charge of the school...The regulation, Dade County School Board Policy 5144, contained explicit directions and limitations. The authorized punishment consisted of paddling the recalcitrant student on the buttocks with a flat wooden paddle measuring less than two feet long, three to four inches wide, and about one-half inch thick. The normal punishment was limited to one to five "licks" or blows with the paddle and resulted in no apparent physical damage to the student. School authorities viewed corporal punishment as a less drastic means of discipline than suspension or expulsion. Contrary to the procedural requirements of the statute and regulation, teachers often paddled students on their own authority without first consulting the principal.

...Ingraham was sunjected to more than twenty licks with a paddle while being held over a table in the principal's office. The paddling was so severe that he suffered a hematoma requiring medical attention and keeping him out of school for several days.

The District Court made no findings on the credibility of the students testimony. Rather, assuming their testimony to be credible, the court found no constitutional basis for relief...

A panel of the Court of Appeals voted to reverse...The panel concluded that the punishment was so severe and oppressive as to violate the Eighth and Fourteenth Amendments, and that the procedures outlined in Policy 5144 failed to satisfy the requirements of the Due Process Clause. Upon rehearing, the en banc court rejected these conclusions and affirmed the judgment of the District Court...The full court held that the Due Process Clause did not require notice or even an opportunity to be heard:

> "In essense, we refuse to set forth as constitutionally mandated, procedural standards for an activity which is not substantial enough, on a constitutional level, to justify the time and effort which would have to be expended by the school in adhering to those procedures or to justify further interference by federal courts into the internal affairs of public schools."

The court also rejected the petitioners' substantive contentions. The Eighth Amendment, in the court's view, was simply inapplicable to corporal punishment in public schools....The court noted that "paddling of recalcitrant children has long been an accepted method of promoting good behavior and instilling notions of responsibility and decorum into the mischievous heads of school children" The court

refused to examineinstances of punishment individually:

> "We think it a misuse of our judicial power to determine for example, whether a teacher has acted arbitrarily in paddling a particular child for certain misbehavior or whether in a particular instance of misconduct five licks would have been more appropriate punishment than ten licks..."

II

...The use of corporal punishment in this country as a means of disciplining schoolchildren dates back to the colonial period. It has survived the transformation of primary and secondary education from the colonials' reliance on optional private arrangements to our present system of compulsory education and dependence on public schools. Despite the general abandonment of corporal punishment as a means of punishing criminal offenders, the practice continues to play a role in the public education of schoolchildren in most parts of the country. Professional and public opinion is sharply divided on the practice, and has been for more than a century. Yet we can see no trend toward its elimination.

At common law a single principle has governed the use of corporal punishment since before the American Revolution: Teachers may use reasonable but not excessive force to discipline a child...

Only two States, Massachusetts and New Jersey have prohibited all corporal punishment in their public schools. Where the legislatures have not acted, the state courts have uniformly preserved the common-law rule permitting teachers to use reasonable force in disciplining children in their charge...

III

The Eighth Amendment provides: "Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted." Bail, fines and punishment traditionally have been associated with the criminal process...We adhere to this longstanding limitation and hold that the Eighth Amendment does not apply to the paddling of children as a means of maintaing discipline in public schools...

The prisoner and the schoolchild stand in wholly different circumstances, separated by the harsh facts of criminal conviction and incarceration. The prisoner's conviction entitles the State to classify him as a "criminal" ...

The schoolchild has little need for the protection of the Eighth Amendment. Though attendance may not always be voluntary, the public school remains an open institution. Except perhaps when very young, the child is not physically restrained from leaving school during school hours; and at the end of the school day, the child is invariably free to return home...

The openness of the public school and its supervision by the community afford significant safeguards against the kind of abuses from which the Eighth Amendment protects the prisoner...Public school teachers and administrators are privileged at common law to inflict only such corporal punishment as is reasonably necessary for the proper education and discipline of the child; any punishment going beyond the privilege may result in both civil and criminal liability.

We conclude that when public school teachers or administrators impose disciplinary corporal punishment, the Eighth Amendment is inapplicable. The pertinent constitutional question is whether the imposition is consonant with the requirements of due process.

...[T] range of interests protected by procedural due process is not infinite...We have repeatedly rejected the notion that *any* grievous loss visited upon a person by the State is sufficient to invoke the procedural protections of the Due Process Clause...Due process is required only when a decision of the State implicates an interest within the protection of the Fourteenth Amendment. And "to determine whether due process requirements apply in the first place, we must look to the 'weight' not to the *nature* of the interest at stake."...

This constitutionallly protected liberty interest is at stake in this case. There is, of course, a de minimus level of imposition with which the Constitution is not concerned. But at least where school authorities, acting under color of state law, deliberately decide to punish a child for misconduct by restraining the child and inflicting appreciable physical pain , we hold that Fourteenth Amendment liberty interests are implicated.

The question remains what process is due...and the question is whether the common law remedies are adequate to afford due process. ...Whether in this case the common law remedies for excessive corporal punishment constitute due process of law must turn on an analysis of the competing interests at stake, viewed against the background of "history, reason [and] the past course of decisions." The analyses requires consideration of three distinct factors: "First, the private interest that will be affected...; second, the risk of an erroneous deprivation of such interest...and the probable value, if any, of additional or substitute safeguards; and finally, the [state] interest including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirements would entail."

...Because it is rooted in history, the child's liberty interest in avoiding corporal punishment while in the care of public school authorities is subject to historical limitations...The concept that reasonable corporal punishment in school is justifiable continues to be recognized in the laws of most states...

This is not to say that the child's interest in procedural safeguards is insubstantial. The school disciplinary process is not a "totally accurate, unerring process, never mistaken and never unfair" In any deliberate infliction of corporal punishment on a child who is restrained for that purpose, there is some risk that the intrusion on the child's liberty will be unjustified and therefore unlawful. In these circumstances the child has a strong interest in procedural safeguards that minimize the risk of wrongful punishment and provide for the resolution of disputed questions of justification.

...In those cases where severe punishment is contemplated, the available civil and criminal sanctions for abuse - considered in light of the openness of the school environment - afford significant protection against unjustified corporal punishment...Teachers and school authorities are unlikely to inflict corporal punishment unnecessarily or excessively when a possible consequence of doing so is the institution of civil and criminal proceedings against them.

It still may be argued, of course, that the child's liberty interest would be better protected if the common-law remedies were

supplemented by the administrative safeguards of prior notice and a hearing. We have found frequently that some kind of prior hearing is necessary to guard against arbitrary impositions on interests protected by the Fourteenth Amensment...But where the State has preserved what has always been the law of the land...the case for administrative safeguards is significantly less compelling...

But even if the need for advance procedural safeguards were clear, the question would remain whether the incremental benefit could justify the cost. Acceptance of petitioners' claims would work a transformation in the law governing corporal punishment in Florida and most other States. Given the impracticability of formulating a rule of procedural due process that varies with the severity of the particular imposition, the prior hearing petitioners seek would have to precede *any* paddling, however, moderate or trivial.

Such a universal constitutional requirement would significantly burden the use of corporal punishment as a disciplinary measure. Hearings, even informal hearings - require time, personnel anda diversion of attention from normal school pursuits. School authorities may well choose to abandon corporal punishment rather than incur the burdens of complying with the procedural requirements. Teachers, properly concerned with maintaining authority in the classroom, may well prefer to rely on other disciplinary measures - which they may view as less effective - rather than confront the possible disruption that prior notice may entail. Paradoxically, such an alteration of disciplinary policy is most likely to occur in the ordinary case where the contemplated punishment is well within the common-law privilege.

Elimination of corporal punishment would be welcomed by many as a societal advance. But when such a policy choice may result from this Court's determination of an asserted right to due process, rather than from the normal processes of community debate and legislative action, the societal costs cannot be dismissed as insubstantial. We are reviewing here a legislative judgment rooted in history and reaffirmed in the laws of many States, that corporal punishment serves important educational interests. This judgment must be viewed in light of the disciplinary problems commonplace in the schools. "Events calling for discipline are frequent occurrences and sometimes require immediate, effective action." Assesment of the need for, and the appropriate means of maintaining school discipline is committed generally to the discretion of school authorities subject to state law. "[T]he Court has repeatedly emphasized the need for affirming the comprehensive authority of the States and of school officials, consistant with fundemental constitutional safeguards, to prescribe and control conduct in the schools."

"At some point the benefit of an additional safeguard to the individual affected...and to society in terms of increased assurance that the action is just, may be outweighed by the cost."... We think that point has been reached in this case. In view of the low incidence of abuse, the openness of our schools, and the common-law safeguards that already exist, the risk of error that may result in violation of a schoolchild's substantive rights can only be regarded as minimal. Imposing additional administrative safeguards as a constitutional requirement might reduce the risk marginally, but would also entail a significant intrusion into an area of primary educational responsibility. We conclude that the Due Process Clause does not require notice and a hearing prior to the imposition of corporal punishment in the public

schools as that practice is authorized and limited by the common law.

Petitioners cannot prevail on either of the theories before us in this case. The Eighth Amendment's prohibition against cruel and unusual punishments is inapplicable to school paddlings, and the Fourteenth Amendment's requirement of procedural due process is satisfied by Florida's preservation of common-law constraints and remedies. We therefore agree with the Court of Appeals that petitioners' evidence affords no basis for injunctive relief, and that petitioners cannot recover damages on the basis of any Eighth Amendment or procedural due process violation.

Affirmed.

APPENDIX B

The following are excerpts from the state statutes of all fifty states describing student rights, suspension policies and corporal punishment.

The excerpts have been drastically edited. A complete package of state statutes pertaining to student rights, suspensions and corporal punishment is on file in the Department of Educational Administration, University of Nevada, Las Vegas.

1. Code of Alabama, 1975. Vol. 13, Title 16

& 16-1-14. Removal, separation or grouping of pupils creating disciplinary Problems. Any city, county or other local public school board may prescribe rules and regulations with respect to behavior and discipline of pupils enrolled in the schools under its jurisdiction and may in its discretion require the grouping of pupils based upon considerations of discipline and may remove, isolate, separate or group pupils who create disciplinary problems in any classroom or other school activity and whose presence in the class may be detrimental to the best interest and welfare of the pupils of such class as a whole.

2. Alaska Statutes: The State of Alaska and 1977 Supplement

Sec. 14.30.045. Grounds for suspension or denial of admission. A school age child may be suspended from or denied admission to the public school which he is otherwise entitled to attend only for the following causes: (1) continued wilful disobedience or open and persistent defiance of reasonable school authority; (2) behavior which is inimicable to the welfare, safety, or morals of other pupils; (3) a physical or mental condition which in the opinion of a competent medical authority will render the child unable to reasonably benefit from the programs available.

3. Arizona Revised Statutes Annotated and Cumulative Pocket Part, 1981.

&15-204 Authority to suspend pupil. A.In Schools employing a superintendent or a principal, the authority to suspend a pupil from school is vested in the superintendent, principal or other school officials granted this power by the board of trustees or board of education of the school district. B. In schools which do not have a superintendent or principal, a teacher may suspend a pupil from school. C. In all cases of suspension, it shall be for good cause and shall be reported within five days to the board of trustees by the person imposing it.

4. Arkansas Statutes - 1980 Replacement - 1981 Cumulative Pocket Supplement.

80-1516. Suspension of pupils - causes - Right to Appeal. The directors of any school district may suspend any person from school for immorality, refractory conduct, insubordination, infectious disease, habitual uncleanliness, or other conduct that would tend to impair the discipline of the school, or harm other pupils, but such suspension shall not extend beyond the current term. The board of directors may authorize the teacher to suspend any pupils, subject to appeal to the board...

80-1629.2 Pupils accountable for conduct - Reasonable Corporal Punishment authorized - Every teacher is authorized to hold every pupil strictly accountable for any disorderly conduct in school or on the

playground of the school, or on any school bus going to or returning from school, or during intermission or recess. Any teacher or principal may use corporal punishment in a reasonable manner against any pupil for good cause in order to maintain discipline and order within the public schools.

5. West's California Annotated Codes

& 48916. Student exercise of freedom of speech and press
Students of the public schools shall have the right to exercise freedom of speech and of the press , including but not limited to, the use of bulletin boards, the distribution of printed materials or petitions, the wearing of buttons, badges, and other insignia, and the right of expression in official publications, whether or not such publications or other means of expression are supported financially by the school or by use of school facilities, except that expression shall be prohibited which is obscene, libelous, or slanderous. Also prohibited shall be material which so incites students as to create a clear and present danger of the commission of unlawful acts on school premises or the violation of lawful school regulations, or the substantial disruption of the orderly operation of the school ...

& 48900.2 Suspension only after failure of other means of correction.
Suspension shall be imposed only when other means of correction fail to bring about proper conduct, provided that a pupil may be suspended for any of the reasons enumerated in Section 48900 upon a first offense if the principal determines that the pupil's presence causes a danger to persons or property or is a threat to disrupting the instructional process.

& 48903. Suspension by principal (a) The principal of the school may suspend from school for any of the reasons enumerated in Section 48900 for no more than five consecutive school days...

&49000. Administration of punishment to pupils.
The governing board of any school district may adopt rules and regulations authorizing teachers, principals, and other certificated personnel to administer reasonable corporal or other punishment to pupils when such action is deemed an appropriate corrective measure except and to the extent that such action is permissible as provided in Section 49001.

&49001. Prohibition of corporal punishment without written parental concent. (a) Corporal punishment shall not be administered to a pupil without the prior written approval of the pupil's parent or guardian. The written approval shall be valid for the school year in which it is submitted but may be withdrawn by the parent or guardian at any time...

6. Colorado Revised Statutes and 1976 Cumulative Supplement

22-33-105. Suspension, expulsion, and denial of admission.
(2) (a) Delegate to any school principal within the school district or to a person designated in writing by the principal the power to

suspend a pupil in his school for not more than five school days on the grounds stated in section 22-33-106.

22-33-106. Grounds for suspension, expulsion and denial of admission. (1) (c) Behavior which is deterimental to the welfare, safety, or morals of other pupils or of school personnel...

7. Connecticut General Statutes - also Cumulative Supplement, 1979.

& 10- 233c. Suspension of Pupils
(a) Any local or regional board of education may authorize the administration of the schools under its direction to suspend any pupil whose conduct endangers persons or property or is seriously disruptive of the educational process, or which conduct is violative of a publicized policy of such board. Unless an emergency exists, no pupil shall be suswithout an informal hearing before the building proncipal or such principal's designee at which such student shall be informed of the reasons for the disciplinary action and given an opportunity to explain the situation, provided nothing herein shall be construed to prevent a more formal hearing from being held if the circumstances surrounding the incident so require, and further provided no pupil shall be suspended more than ten times or a total of fifty days in one school year, which ever results in fewer days of exclusion, unless such pupil is granted a formal hearing pursuant to sections 4-177 to 4-180 inclusive. If an emergency situation exists, such hearing shall be held as soon as after the suspension as possible.

8. Delaware Code Annotated and Cumulative Pocket Part, 1977

& 701. Authority of teachers and administrators to administer corporal punishment. Every teacher and administrator in the public schools of this State shall have the right to exercise the same authority as to control, behavior and discipline over any pupil during any school activity as the parents or gusrdians may exercise over such pupils. The above authority may include corporal punishment where deemed necessary. Where corporal punishment is deemed necessary, it may be administered by any public school teacher or administrator in accordance with district board of education policy.

9. Florida Statutes Annotated and 1979 Cumulative Pocket Part

232.26 Authority of principal
(1) (a) Subject to law and to the rules of the state board and the district school board, the principal in charge of the school or his designated representative shall develop policies by which he may delegate to any teacher or other member of the instructional staff or to any bus driver transporting students of the school such responsibility for the control and direction of students as he may consider desireable.

(b) The principal or his designated representative may suspend a student only in accordance with the rules of the district school board, and each suspension shall be reported in writing within 24 hours, with the reasons therefor, to the student's parent or guardian and to the superintendent. A good faith effort shall be made by the principal to employ parental assistance or other alternative measures prior to suspension, except in the case of emergency or disruptive conditions which require immediate suspension...

232.27 Authority of teacher
Subject to law and to the rules of the district school board, each teacher or other member of the staff of any school shall have such authority for the control and discipline of students as may be assigned to him by the principal or his designated representative and shall keep good order in the classroom and in other places in which he is assigned to be in charge of students. If a teacher feels that corporal punishment is necessary, at least the following shall be followed:
(1) The use of corporal punishment shall be approved in principle by the principal before it is used, but approval is not necessary for each specific instance in which it is used. The principal shall prepare guidelines for administering such punishment which identify the types of punishable offenses, the conditions under which the punishment shall be administered, and the specific personnel on the school staff authorized to administer the punishment.

(2) A teacher or principal may administer corporal punishment only in the presence of another adult who is informed beforehand, and in the student's presence, of the reason for the punishment.

(3) A teacher or principal who has administered punishment, shall upon request, provide the pupil's parent or guardian with a written explanation of the reason for the punishment and the name of the other adult who was present.

10. Code of Georgia Annotated, 1979.

20-2-752 Public Schools Disciplinary Tribunals Same; policy, rules and regulations. Local boards of education may establish by policy, rule or regulation disciplinary hearing officers, panels, or tribunals of school officials to impose suspension or expulsion.

20-2-730 Corporal punishment of students
All area, county and independent boards of education shall be authorized to determine and adopt policies and regulations relating to the use of corporal punishment by school principals and teachers employed by such boards.

20-2-731 Same; method of adminstering punishment
An area, county or independent board of education may, upon the adoption of written policies, authorize any principal or teacher employed by the board to administer, in the exercise of his sound discretion, corporal punishment on any pupil or pupils placed under his supervision in order to maintain proper control and discipline...

11. Hawaii Revised Statutes - also 1981 Supplement

&298-16 Punishment of Pupils Limited
No physical punishment of any kind may be inflicted upon any pupil, but reasonable force may be used by a teacher in order to restrain a pupil in attendance at school from hurting himself or any other person or property and reasonable force may be used as defined in section 703-309(2) by a principal or his agent only with another teacher present and out of the presence of any other student but only for the purposes outlined in section 703-309(2)(a).

&703-309 Use of force by persons with special responsibility for care, discipline, or safety of others. (2)The actor is a teacher or a person otherwise entrusted with the care or supervision for a special purpose of a minor, and: (a) The actor believes that the force is necessary to further special purpose, including maintenance of reasonable discipline in a school, class, or other group, and that the use of such force is consistant with the welfare of the minors; and (b) The degree of force if it had been used by the parent or guardian of the minor, would not be unjustifiable under section (1)(b) of this section.

12. Idaho Code - 1981 Cumulative Supplement

33-1224. Powers and duties of teachers.
In the absence of any statute or rule or regulation of the board of trustees, any teacher employed by a school district shall have the right to direct how and when each pupil shall attend to his appropriate duties, and the manner in which a pupil shall demean himself while in attendance at the school. It is the duty of a teacher to carry out the rules and regulations of the board of trustees in controlling and maintaining discipline, and a teacher shall have the power to adopt any reasonable rule or regulation to control and maintain discipline in, and otherwise govern, the classroom, not inconsistent with any statute or rule or regulation of the board of trustees.

33-512. Government of schools
The board of trustees of each school district shall have the following powers and duties: ...6. To prescribe rules for the disciplining of of unruly or insubordinate pupils;...11. To prohibit entrance to each schoolhouse or school grounds...to provide for the removal from each schoolhouse or school grounds of any individual or individulas who disrupt the educational process or whose presence is deteriental to the morals, health, safety, academic learning or discipline of pupils.

13. Illinois Annotated Statutes and Cumulative Annual Pocket Part, 1981.

&34-19. By-laws, rules and regulations...
The board shall, subject to the limitations in this Article, establish by-laws, rules and regulations, which shall have the force of ordinances, for the proper maintenance of a uniform system of discipline for both employees and pupils, and for the entire management of the schools... It may expel, suspend or otherwise discipline any pupil

found guilty of gross disobedience, misconduct or other violation of the by-laws, rules and regulations.

&34-84a. Teachers shall maintain discipline
Teachers and other certificated employees shall maintain discipline in the schools, including school grounds which are owned or leased by the board and used for school purposes and activities. In all matters relating to the discipline in and conduct of the schools and the school childres, they stand in the relation of parents and guardians to the pupils. This relationship shall extend to all activities connected with the school program and may be exercised at any time for the safety and supervision of the pupils in the absensce of their parent or guardian. Nothing in this Section affects the power of the board to establish rules with respect to discipline.

14. Indiana Statutes Annotated - also 1980 Cumulative Supplement

20-8.1-5-2 Delegation of authority.
In carrying out the school purposes of the school corporation the following grants of authority are hereby made: (c) The governing body may make written rules and establish written standards concerning student conduct which are reasonably necessary to carry out, or to prevent interference with carrying out, an educational function or school purposes. (e) The governing body may make such other delegations of rule-making, disciplinary and othrr authority as are reasonably necessary in carrying out the school purposes of the school corporation.

20-8.1-5-6 Suspension
(a) Any principal may suspend a student for a period of no more than [5] school days for conduct constituting grounds for expulsion or suspension as set out in section 4 [20-8.1-5-6] of this chapter. Such suspension shall be made only after the principal has made an investigation thereof and has determined that that such suspension is necessary to help any student or to prevent interference with an educational function or school purposes.

20-8.1-5-17. Search of school lockers
-(a) A student using a locker that is the property of a school corporation is presumed to have no expectation of privacy in that locker or its contents...

15. Iowa Code Annotated - also Cumulative Annual Packet Part, 1980

282.4 Majority vote - suspension
The board may, by a majority vote, expel any scholar from school for immorality, or for a violation of the regulations or rules established by the board, or when the presense of the scholar is detrimental to the best interests of the school; and it may confer upon any teacher, principal, or superintendent the power temporarily to dismiss a scholar, notice of such dismissal being at once given in writing to the President of the board.

16. Kansas Statutes Annotated, Cumulative Pocket Part, 1980

72-8901. Grounds for suspension or expulsion; who may suspend or expel. The board of education of any school district may suspend or expel, or by regulation authorize any certificated employee or committee of certificated employees to suspend or expel, any pupil or student guilty of any of the following:...

17. Kentucky Revised Statutes, 1981 Cumulative Issue

158.150 Suspension or expulsion of pupils
Pupils admitted to the common schools shall comply with the lawful regulations for the government of the state. Wilful disobedience or defiance of the authority teachers, habitual profanity or vulagarity, or other violation of prropriety or law, constitutes cause for suspension or expulsion from school. The superintendent, principal, head teacher of any school may suspend a dtudent for such misconduct.

160.290 General powers and duties of board
(1) Each board of education shall have general control and management of the public schools in its district...

18. Louisiana Revised Statutes, Cumulative Annual Pocket Part, 1981

&223. Discipline of pupils; suspension from school
Every teacher is authorized to hold every pupil to a strict accountability for any disorderly conduct in school or on the playground of the school, or on any school bus going to or returning from school, or during intermission or recess. Any teacher or school principal may use corporal punishment in a reasonable manner against any pupil for good cause in order to maintain discipline and order within the public schools...

&416. Discipline of pupils; suspension; expulsion
A. Every teacher is authorized to hold every pupil to a strict accountability for any disorderly conduct ...School principals may suspend from school any pupil who is guilty of...

&416.3. Search of students' persons, desks, lockers; defense of suits against school personnel; indemnification
A. The parish or city school systems of the state are the exclusive owner of any public school building; any desk or locker of any student contained therein of any other area of any public school building or grounds set aside specifically for said student's personal use, and any teacher, principal or administrator in any parish or city school system of the state may, with probable cause that any said building , desk, locker, area of grounds contains any weapon or illegal drug, search such building, desk, locker, area or grounds; and said teacher, principal or administrator may, with reasonable belief that any student shall have in his possession on public school property, any weapon or illegal drug.

19. Maine Annotated Code

&473. 5. Scholars expelled or suspended
...expel any obstinately disobedient and disorderly scholar, after a proper investigation of his behavior, if found necessary for peace and usefulness of the school:...The school committee may authorize the principal to suspend students up to a maximum of 10 days for infractions of school rules.

20. Maryland Annotated Code - also Cumulative Supplement, 1981

&7-304. Suspension and expulsion
(a) Suspension is for not longer than 5 school days - (1) In accordance with the rules and regulations of the county board, each principal of a public school may suspend for cause, for not more than 5 school days, any student in the school who is under the direction of the principal... (b) Suspension for more than 5 school days and expulsion - At the request of a principal, a county superintendent may suspend a student for more than 5 school days or expel him...

&7-307 Searches of students and schools
(a) Every principal, assistant principal, or authorized security officer of a public school may conduct a reasonable search of a student on the school premesis if he has probable cause to believe that such student has in his possession an item, the possession of which constitutes a criminal offense under the laws of this State. The search must be made in the presense of a third party.

&7-757 Corporal punishment in certain counties
Irrespective of any bylaw or rule or regulation made or approved by the State Board of Education, nothing shall prohibit use of corporal punishment by a principal, or vice-principal in the county school system in Allegany, Anne Arundel, Calvert, Carroll, Caroline, Cecil, Charles, Dorchester, Frederick, Garrett, Harford, Kent, Queen Anne's, St. Mary's, Somerset, Talbot, Washington, Wicomico and Worcester counties. The board of education of each of the herein named counties may establish rules and regulations governing the use of corporal punishment in their respective county school system.

21. Massachusetts General Laws Annotated, 1971 - also Cumulative Annual Pocket Part.

&37G. Corporal punishment of pupils prohibited
The power of any school committee or of any teacher or other employee or agent of the school committee to maintain discipline upon school property shall not include the right to inflict corporal punishment upon any pupil.

&82. Public secondary schools; right of students to freedom of expression; limitations; definitions

The right of students to freedom of expression in the public schools

of the commonwealth , shall not be abridged, provided that such right shall not cause any disruption or disorder within the school...

22. Michigan Compiled Laws Annotated, Cumulative Pocket Part, 1980

380.1311 Expulsion of pupils; handicapped, evaluation
Sec. 1311. The board may authorize or order the suspension or expulsion from school of a pupil guilty of gross misdemeanor or persistant disobedience when in the board's judgment the interest of the school may demand the authorization or order...

380.1313 Use of reasonable physical force by teacher or superintendent; taking possession of dangerous weapon; maintaining discipline; civil liability
Sec. 1312. (1) A teacher or superintendent may use reasonable physical force necessary to take possession of a dangerous weapon carried by a pupil. (2) A teacher or superintendent may use reasonable physical force on the person of a pupil necessary for the purpose of maintaining proper discipline over pupils in attendance at school. (3) A teacher or superintendent shall not be liable in a civil action for the use of physical force on the person of a pupil for the purposes prescribed in this section, except in cases of gross abuse and disregard for the health and safety of the pupil.

23. Minnesota Statutes Annotated, Cumulative Poclet Part, 1978

&127.27 Definitions
Subd. 10."Suspension" means an action taken by the school administration, under rules promulagated by the school board, prohibiting a pupil from attending school for a period of no more than five school days.

127.28 Policy
No public school shall deny due process or equal protection of the law to any public school pupil involved in dismissal proceeding which may result in suspension, exclusion or expulsion.

24. Mississippi Code Annotated - also Cumulative Supplement

&37-9-71. Suspension of pupil
The superintendent of a school district and the principal of a school shall have the power to suspend a pupil for good cause or for any reason for which such pupil might be suspended, dismissed or expelled by the board of trustees...

25. Missouri Statutes Annotated, Cumulative Annual Pocket Part

167,161 Suspension or expulsion of pupil - notice - hearing
The school board of any district, after notice to parents or others

having custodial care and a hearing upon charges preferred, may suspend or expel a pupil for conduct which is prejudicial to good order and discipline in the schools or which tends to impair the morale or good conduct of the pupils...

167,171. Summary suspension of pupil - appeal - grounds for suspension - procedure
1. The school board in any district, by general rule and for the causes provided in section 167.161, may authorize the summary suspension of pupils by principals of schools for not to exceed ten days and by the superintendent for more than ten days...

26. Montana Revised Code 1981

20-5-202. Suspension and expulsion. ...any pupil may be suspended by a teacher, superintendent or principal. The trustees of the district shall adopt a policy defining the authority and procedure to be used by a teacher, superintendent or principal in suspending a pupil and to define the circumstances and procedures by which the trustees may expel a pupil...

20-4-302. Power of teacher or principal over pupils - unde punishment
(1) Any teacher or principal shall have the authority to hold any pupil to a strict accountability for any dosorderly conduct in school... Whenever a principal shall deem it necessary to inflict corporal punishment in order to maintain orderly conduct of a pupil, he shall administer such corporal punishment without undue anger and only in the presence of a witness. Before any corporal punishment is administered, the parent or guardian shall be notified of the principal's intention to so punish his child; except in cases of open and flagrant defiance of the teacher, principal or of the authority of the school, the teacher or principal may administer corporal punishment without giving such notice...
(4) Any teacher or principal who shall maltreat or abuse any pupil by administering any undue or severe punishment shall be deemed guilty of a misdemeanor and upon conviction of such misdemeanor by a court of competent jurisdiction, shall be fined not more than $100.

27. Revised Statutes of Nebraska

79-4,171 School board or board of education; suspension or expulsion; emergency. The school board or board of education may authorize the emergency exclusion, short term or long term suspension, expulsion, or mandatory reassignment of any pupil from school for conduct prohibited by the board's rules or standards established pursuant to sections...

28. Nevada Revised Statutes

392.030 Suspension or expulsion of pupils.
1. The board of trustees of a school district may authorize the suspension or expulsion of any pupil from any public school within the

school district in accordance with rules and hearing procedures complying with requirements of due process of law.

392.465 Corporal punishment of pupils
2. Subject to the limitations contained in this section, the board of trustees of every school district shall adopt rules and regulations authorizing teachers, principals and other certificated personnel to administer reasonable corporal punishment or other punishment to pupils when such action is deemed an appropriate corrective measure.
3. Parents and guardians shall be notified before, or as soon as possible after after, corporal punishment is administered.
4. No corporal punishment shall be administered on or about the head or face of any pupil, but this limitation shall not prohibit any teacher, principal or other certificated person from defending himself if attacked by a pupil.

28. New Hampshire Revised Statutes Annotated Supplement, 1981

193:13 Suspension and Dismissal of Pupils
The superintendent, or his representative as designated in writing is authorized to suspend pupils from school for gross misconduct, providing that where there is a suspension lasting beyond 5 school days, the parent or guardian has the right to appeal any such suspension to the local board. Any pupil may be dismissed by the local school board for gross misconduct.

29. New Jersey Statutes Annotated

18A:6-1. Corporal Punishment of pupils
No person employed or engaged in a school or educational institution, whether public or private, shall inflict or cause to be inflicted corporal punishment upon a pupil attending such school or institution; but any such person may, within the scope of his employment, use and apply such amounts of force as is reasonable and necessary : (1) to quesll a disturbance...(2) to obtain possession of weapons...(3) for the purpose of self defense...(4) for the protection of persons or property; and such acts, or any of them shall not be construed to constitute corporal punishment within the meaning and intendment of this section. Every resolution, bylaw, rule ordinance, or other act or authority permitting or authorizing corporal punishment to be inflicted upon a pupil attending a school or educational institution shall be void.

18A:37-2. Causes for suspension or expulsion of pupils
Any pupil who is guilty of continued and wilful disobedience, or of open defiance of the authority of any teacher or person having authority over him, or of the habitual use of profanity or of obscene language, or who shall cut, deface, or otherwise injure any school property, shall be liable to punishment and to suspension or expulsion from school.

18A:37-4 Suspension of pupils by teacher or principal
The teacher in a school having but one teacher or the principal in all other cases may suspend any pupil from school for good cause...

31. New Mexico Statutes Supplement 1978

22-2-1 State Board; powers.
A. The state board is the governing authority and shall have control, management and direction of all public schools, except as otherwise provided by law.
B. The state board may promulgate, publish and enforce regulations to exercise the authority granted pursuant to the Public School Code.

32. McKinney's Consolidated Laws of New York Annotated and Supplement

3214. School for Delinquints
3. Suspension of a pupil. a. The board of education, board of trustees or sole trustee, the superintendent of schools, or district superintendent of schools may suspend the following pupils from required attendance upon instruction: (1) A pupil who is insubordinate or disorderly, or whose conduct otherwise endangers the safety, morals, health or welfare of others... (b) The board of education, board of trustees, or sole trustee may adopt by-laws delegating to the principal of the district or the principal of the school where the pupil attends, the power to suspend a pupil for a period not to exceed five school days.

33. General Statutes of North Carolina Supplement 1981

115C-390 School personnel may use reasonable force.
Principals, teachers,...may use reasonable force in the exercise of lawful authority to restrain or correct pupils and maintain order. No local board of edcuation or district committee shall promulgate or continue in effect a rule, regulation, or bylaw which prohibits the use of such force as is specified in this section.

115C-391. Suspension or expulsion of pupils.
(a) Local boards of education shall adopt policies governing the conduct of students and shall cause these policies to be published ... Local boards shall also adopt policies, not inconsistant with the provisions of this section or the Constitutions of the United States and North Carolina, establishing procedures to be followed by school officials in suspending or expelling any pupil from school...

34. North Dakota Century Code Supplement 1981

15-38-15. Suspension of pupils - Cause - Notice.
A teacher may suspend any pupil from school for not more than five days for insubordination, habitual disobedience, or disorderly conduct. In

each case, the teacher shall give immediate notice of the suspension, and the reason therefor, to the parent or gusrdian of the pupil and to a member of the school board.

35. Ohio Revised Code Annotated - also 1980 Supplement

3313.66 Suspension or expulsion
(A) The Superintendent of schools ...or the principal of a public school may suspend a pupil from school for not more than ten school days. No pupil shall be suspended unless prior to suspension such superintendent or principal:...

3319.41. Use of force and infliction of corporal punishment on pupils
A person employed or engaged as a teacher, principal or administrator in a school, whether public or private, may inflict or cause to be inflicted, reasonable corporal punishment of a pupil attending such school whenever punishment is reasonably necessary.

36. Oklahoma Statutes Annotated Replacement 1981

&6-114. Control and discipline of child
The teacher of a child attending a public school shall have the same right as a parent or guardian to control and discipline such child during the time the child is in attendance or in transit to or from school or any other school function authorized by the school district or classroom presided over by the teacher.

&24-101. Pupils - Suspension - Appeal
Any pupil who is guilty of immorality or violation of the regulations of a public school may be suspended by the principal teacher of such school, which suspension shall not extend beyond the current school semester and the succeeding semester...

&24-102. Pupils -Dangerous weapons - Dangerous substances
The superintendent or principal of any public school in the State of Oklahoma, or any teacher or security personnel, shall have the authority to detain and authorize the search of any pupil or pupils on any school premesis... for dangerous weapons or controlled dangerous substances...

37. Oregon Revised Statutes

339.250 Duty of pupil to comply with rules; discipline; alternate programs. (2) Unless otherwise specified by a district school board, a teacher may use reasonable physical force upon a student when and to the extent the teacher believes it necessary to maintain order in the school or classroom or at a school activity or event... (3) The district school board may authorize the discipline, suspension or expulsion of any refractory pupil.

38. Pennsylvania Statutes Annotated Replacement 1980

&13-1317. Authority of teachers, vice principals and principals over pupils. Every teacher, vice principal and principal in the public schools shall have the right to exercise the same authority as to conduct and behavior over the pupils attending the school, during the time they are in attendance, including the time required in going to and from their himes, as the parents, guardians or persons in parental relation to such pupils may exercise over them.

&13-1318. Suspension and expulsion of pupils
Every principal or teacher in charge of a public school may temporarily suspend any pupil on account of disobedience or misconduct, and any principal or teacher suspending any pupil shall promptly notify the district superintendent ...

39. General Laws of Rhode Island - Cumulative Supplement

40. Code of Laws of South Carolina

&59--63--220. Suspension of pupils by administrators
Any district board may confer upon any administrator the authority to suspend a pupil from a teacher's class or from the school not in excess of ten days for one offense.

&59--63--260. Corporal Punishment
The governing body of each school district may provide corporal punishment for any pupil that it deems just and proper.

41. South Dakota Compiled Laws Annotated

13-32-2. Physical punishment authorized when reasonable and necessary... Superintendents, principals, supervisors and teachers, shall have authority, to administer such physical punishment on an insubordinate or disobedient student that is reasonable and necessary for supervisory control over the student. Like authority over students is given any person delegated to supervise children who have been authorized to attend a school function away from their school premesis and to school bus drivers while students are riding, boarding or leaving the buses.

13-32-4. School board to assist in discipline-Suspension and expulsion of pupils - Hearings. The school board of every school district shall assist and cooperate with the teacher in the government and discipline of the schools. The board may suspend or expel from school any pupils insubordinate or habitually disobedient, and the person in charge may temporarily suspend any such pupils...

42. Tennessee Code Annotated

49-1309. Suspension of pupils by principals
- (a) Any principal or principal-teacher of any public school in this state is authorized to suspend a pupil from attendance at such school ... for good and sufficient reasons...

43. Texas Code Annotated - Education

&21.301. Suspension of Incorrigible Pupil
(a) The board of trustees of any school district may suspend from the priviliges of the schools any pupil found guilty of incorrigible conduct, but such ssupension shall not extend beyond the current term of the school. (b) A teacher may remove a pupil from class in order to maintain effective discipline in the classroom...

44. Utah Code Annotated

45. Vermont Statutes Annotated

&1161 Punishment
A teacher or a principal of a school or a superintendent or a school director on request of an in the presence of the teacher, may resort to any reasonable form of punishment, including corporal punishment, and to any reasonable degree, for the purpose of securing obedience on the part of any child enrolled in such school, or for his correction, or for the purpose of securing or maintaining order in and control of such school.

&1162. Suspension or dismissal of pupils
A superintendent or principal may, pursuant to regulations adopted by the governing board, suspend...for misconduct when the misconduct makes the continued presence of the pupil harmful to the welfare of the school...

46. Code of Virginia

&22.1-277. Suspension or expulsions of pupils; generally.
-A. Pupils may be suspended or expelled from attendance at school for sufficient cause...

&22.1-278. Same; School board regulations
School boards shall adopt regulations governing suspension and expulsion of pupils. Such regulations which shall be consistant with the welfare and efficiency of the schools...The procedures set forth in &22.1-277 shall be the minimum procedures that the school board may prescribe.

&22.1-280. Reasonable corporal punishment of pupils permitted.
In the maintenance of order and discipline and in the exercise of a sound discretion, a principal or teacher in a public school or in a school maintained by the State may administer reasonable corporal punishment on a pupil under his authority, provided he acts in good faith and such punishment is not excessive.

47. Revised Code of Washington

28A.58.200 Pupils to comply with rules and regulations.
All pupils who attend the common schools shall comply with the rules and regulations established in pursuance of the law for the government of schools...and shall submit to the authority of the teachers of such schools, subject to such disciplinary or other action as the local school officials shall determine.

28A.58.201 Principal to assure appropriate student discipline...
Within each school the school principal shall determine that appropriate student discipline is established and enforced.

48. West Virginia Code, Cumulative Annual Pocket Part 1977.

&18A-5-1 Authority of teachers and other school personnel;...Suspension or expulsion of disorderly pupils.
The teacher shall stand in place of the parent or guardian in exercising authority over the school, and shall have control of all pupils enrolled in the school ...The teacher shall have authority to suspend any pupil guilty of disorderly, refractory, idecent or immoral conduct...

49. Wisconsin Statutes Annotated, Cumulative Annual Pocket Part 1981

120.13 School board powers
(1) School government rules; suspension; expulsion....(b) The school district administrator or any principal or teacher designated by the school district administrator also may make rules, with the consent of the school board, and may suspend a pupil for not more than 3 school days...

50. Wyoming Statutes - also 1977 Cumulative Supplement

&21-4-305 Suspension or expulsion; authority; procedure
(a) The board of trustees of any school district may delegate authority to disciplinarians chosen from the administrative and supervisory staff to suspend any student from school for a period not to exceed (10) school days...

&21-4-308. Punishment and disciplinary measure...
(a) Each board of trustees in each school district within the state may

adopt rules for reasonable forms of punishment and disciplinary measures. Subject to such rules, teachers, principals, and superintendents in such district may impose reasonable forms of ounishment and disciplinary measures for insubordination, disobedience, and other misconduct.

ABSTRACT

TITLE: "Student Rights and the Disciplinary Process in Constitutional Law.

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This study established the extent to which the state statutes of all 50 states provided for a legal description of the constitutional rights of students and the disciplinary process.

The study was descriptive in nature and provided for a systematic analysis of statutory enactment in the area of student rights and the disciplinary process.

From an analysis of the local Clark County School District Rules and Regulations on student rights and the disciplinary process, the study progressed to an analysis of the statutes of all 50 states to determine if statutory language contained in the codes conformed to the decisions of the United States Supreme Court in the three landmark cases under consideration in this study.

The three landmark cases dealt with the rights of students and the disciplinary process. They were the 1969 case of Tinker v. Des Moines, the 1975 case of Goss v. Lopez, and the 1977 case of Ingraham v. Wright.

Tinker dealt with the First Amendment rights of students to freedom of speech and expression while at school while Goss dealt with the Fourteenth Amendment rights of students to due process in school suspension cases. Ingraham dealt with both the Eighth Amendment's prohibition against cruel and unusual punishment as well as the Fourteenth Amendment's requirement of due process as applied to the use of corporal punishment in the public schools.

It was found that the statutes of all 50 states varied greatly and that there was little uniformity. It was also found that there was ambiguity in statutory language and that many states failed to clarify who was to assume responsibility for dealing with the issues of student rights as it pertained to the disciplinary process.

It was concluded, however, that where states have amended or revamped their codes subsequent to the decisions of the Supreme Court in the three landmark cases, notice was taken of those decisions by the state legislatures.

Finally, proposals were made for the inclusion of prototype bills into the statutes of all 50 states designed to assist school officials to implement the law.