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The Relationship between the Level of Recognition of Substantive Due Process Rights in Student Suspensions and Administrative Practices, School Board Policies and Other Selected Variables in Illinois Public High Schools

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THE RELATIONSHIP BETWEEN THE LEVEL OF RECOGNITION OF
SUBSTANTIVE DUE PROCESS RIGHTS IN STUDENT SUSPENSIONS
AND
ADMINISTRATIVE PRACTICES, SCHOOL BOARD POLICIES AND
OTHER SELECTED VARIABLES IN ILLINOIS PUBLIC HIGH SCHOOLS

by

Lawrence F. Rossow

A Dissertation Submitted to the Faculty of the School of
Education of Loyola University of Chicago in Partial
Fulfillment of the Requirements for the Degree of
Doctor of Education

January

1983

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This study had two major objectives. First, reveal the extent to which high school student discipline administrators can recognize substantive due process as a necessary element in student suspension. Second, identify which institutional and/or school administrator characteristics influence the level of substantive due process being recognized and afforded students.

As it is among those states with the greatest amount of student suspensions, high school disciplinarians from Illinois participated. Three hundred administrators from a total population of 755 were drawn at random to be surveyed.

Since no instrument existed that could serve the objectives of the study, a specially designed instrument was developed. The instrument consists of two sections. Section one gained background information on schools and administrators. Section two posed eight student suspension hypotheticals to which student disciplinarians responded by indicating the extent to which they agreed with the decisions

being reached in each of the hypotheticals.

Multiple regression analysis was conducted to determine the extent to which any one or combination of institutional and/or administrator characteristics might be significantly related to the level of recognition of substantive due process. In addition, multiple regression analysis would provide the information that would indicate which variables if any are the best predictors for substantive due process.

The best predictors among the twelve variables considered were statistically confirmed as follows: (1) percent of racial minorities present in the student body, (2) percent of students suspended that could be classified as racial minority, and (3) the geographic region in which the school is located. The results contradict notions concerning rural versus urban racial discrimination in suspension practices. The results show that the levels of recognition of due process are higher in the rural areas of Illinois as compared to the urban regions.

The student disciplinarian characteristics concerning the level of formal legal training showed no significant relationship to the recognition of substantive due process. The earlier notions of racial discrimination in student suspension being rooted in unfair practices were not supported by the findings. Rather, there appears to be quite a bit more fairness in schools and in suspensions where racial minorities are present.

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To my wife Nancy, daughter Mara and my entire family for their patience through the long years of my schooling.

VITA

Lawrence Francis Rossow was born in Chicago on March 21, 1947. He was graduated from Gordon Technical High School in 1965. In 1969, he received the Bachelor of Arts degree from DePaul University having majored in philosophy and minoring in education and English. The author earned the Master of Education degree with major in Administration and Supervision in 1971 from Loyola University of Chicago. In 1976, Mr. Rossow attended the University of Chicago for advanced study in the fields of educational finance and law. His research interests include Constitutional Law as applied to Public/Private Education and student discipline study through quantitative analytical techniques.

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TABLE OF CONTENTS

	<u>Page</u>
ACKNOWLEDGMENTS.	ii
VITA	iii
LIST OF TABLES	vii
Chapter	
I. INTRODUCTION.	1
Purpose of the Study.	4
Hypotheses of the Study	5
Description of the Target Population.	6
Limitations of the Study.	9
Methods and Procedures.	10
Instrumentation	14
Definition of Terms	16
Summary	20
II. REVIEW OF THE LITERATURE.	21
Introduction.	21
The Role of Substantive Due Process in Student Suspension.	24
Administrative Discretion and the Standards of Fairness.	40
Racial Discrimination in Student Suspensions.	46
Students' Sex as Related to Suspension	59
Class Discrimination in Student Suspension	62
Summary	72
III. PRESENTATION OF DATA.	68
Development of the Instrument	68
Expert Panel.	75
Weighting Factors	77
Pilot Study	82
School Rules.	84
Summary	86

TABLE OF CONTENTS (continued)

	<u>Page</u>
IV. ANALYSIS OF DATA.	89
Introduction.	89
Description of Survey Return.	90
Preliminary Analysis of the Data.	91
Analysis of the Study Hypotheses.	95
Hypothesis One -- Bivariate Regression Analysis.	96
Hypothesis Two -- Analysis of Variance.	103
Hypothesis Three -- Bivariate Regression Analysis.	112
Hypothesis Four -- Bivariate Regression Analysis.	118
Hypothesis Five -- Bivariate Regression Analysis.	126
Hypothesis Six -- Bivariate Regression Analysis.	134
Hypothesis Seven -- Bivariate Regression Analysis.	140
Hypothesis Eight -- Bivariate Regression Analysis.	146
Hypothesis Nine -- Bivariate Regression Analysis.	152
Hypothesis Ten -- Analysis of Variance	157
Hypothesis Eleven -- Analysis of Variance	163
Hypothesis Twelve -- Analysis of Variance	166
Multiple Regression	169
Summary	180
V. SUMMARY, CONCLUSIONS, AND RECOMMENDATIONS	183
Summary	183
Conclusions	188
Recommendations	191
Recommendations for Further Study	193
BIBLIOGRAPHY	195

TABLE OF CONTENTS (continued)

	<u>Page</u>
APPENDIX A	204
APPENDIX B	205
APPENDIX C	212
APPENDIX D	213

LIST OF TABLES

Table	<u>Page</u>
1.	Computation of the mean for responses to hypotheticals in deriving weighting factors for due process questions. 79
2.	Frequency distribution of scores given section two hypotheticals by expert panel. 81
3.	Distribution of pilot schools stratified by results of study sample 85
4.	Number of instruments sent, received and percentage of returns by region. 92
5.	Descriptive statistics -- substantive due process scores. 93
6.	Substantive due process scores comparisons. 94
7.	Descriptive summary statistics for hypothesis one 97
8.	Statistics calculated for hypothesis one 98
9.	Descriptive summary statistics for hypothesis two 105
10.	Statistics calculated for hypothesis two 106
11.	Substantive due process composite scores by region 108
12.	Comparison of institutional and administrative characteristics by region. 109

LIST OF TABLES (continued)

Table	<u>Page</u>
13. Descriptive summary statistics for hypothesis three	112
14. Statistics calculated for hypothesis three	113
15. Descriptive summary statistics for hypothesis four.	119
16. Statistics calculated for hypothesis four.	120
17. Substantive due process scores by percent of racial minorities.	125
18. Descriptive summary statistics for hypothesis five.	127
19. Statistics calculated for hypothesis five.	128
20. Substantive due process scores by percent of racial minorities suspended.	132
21. Descriptive summary statistics for hypothesis six	135
22. Statistics calculated for hypothesis six	136
23. Descriptive summary statistics for hypothesis seven	141
24. Statistics calculated for hypothesis seven	142
25. Descriptive summary statistics for hypothesis eight	147
26. Statistics calculated for hypothesis eight	148

LIST OF TABLES (continued)

Table	<u>Page</u>
27.	Descriptive summary statistics for hypothesis nine. 153
28.	Statistics calculated for hypothesis nine. 154
29.	Descriptive summary statistics for hypothesis ten 158
30.	Statistics calculated for hypothesis ten 158
31.	Descriptive summary statistics for hypothesis eleven. 163
32.	Statistics calculated for hypothesis eleven. 164
33.	Descriptive summary statistics for hypothesis twelve. 167
34.	Statistics calculated for hypothesis twelve. 174
35.	Description of Variables 171
36.	Statistics calculated for multiple regression. 174
37.	Statistics calculated for best two variable model 175

CHAPTER I

INTRODUCTION

Public opinion polls rank discipline as the biggest problem facing the public schools.¹ As school administrators seek to respond to the public's concern, the use of student suspension as a disciplinary tool has increased. In the State of Illinois for 1979, 11.3% of the public high school student population was suspended one or more days. In 1980, the suspension figure had risen to 14.4%.² Just ten years ago Illinois was suspending 5.6% of its students. The current figures represent an approximate increase of 300%.

In 1975 the Supreme Court decided the case of Goss v. Lopez.³ The Court held that the Due Process Clause⁴ requires that procedural safeguards be followed in student suspensions. At a minimum it is expected that the school

¹George H. Gallup, "The 12th Annual Gallup Poll of the Public's Attitudes Toward the Public Schools," Phi Delta Kappan 62 (September, 1980): 34.

²Research and Statistics Section, Illinois State Board of Education.

³Goss v. Lopez, 419 U.S. 565, 95 S. Ct. 729, 42 L. Ed. 2d 725 (1975).

⁴U.S. Const. Amend. XIV.

administrator should (1) provide a hearing, (2) notify parents, (3) give parents an opportunity to appeal the decision. The Court went on to further distinguish procedures for suspensions longer than ten days as well as those procedures for students who must be removed from school because they pose an immediate threat.

Although most of the Goss decision deals with the procedural aspects of Due Process for suspensions, the Due Process Clause encompasses both procedural and substantive elements. Constitutional due process is not so precise as to requirements as school administrators have been led to believe. In effect it is a question of "fair play," and the concept encompasses different rules in accordance with different factual contexts and different types of proceedings.⁵ Nevertheless, because of the popularity of the Goss decision Reutter points out that "a remarkably large number of student discipline cases have been decided against school authorities not on their merits (substantive issues) but on the ground that procedural due process was inadequate."⁶ Hence, legal requirements in student suspensions have come to be understood by school administrators as the provision of procedural due process. The fact that due process in-

⁵Hannah v. Larche, 363 U.S. 420, 80 S. Ct. 1502, 4 L. Ed. 2d 1307 (1960).

⁶E. Edmund Reutter, Jr. and Robert R. Hamilton, The Law of Public Education (New York: The Foundation Press, Inc., 1976), p. 558-559.

cludes the substantive elements of Fundamental Fairness and Fair Warning as well as procedural regularity has not yet been fully realized by the educational community. Even the Goss Court recognized the more basic rights of students, "especially the right to be insulated from the actions of administrators unhampered by fundamental principles of fairness."⁷

Regardless of how carefully an administrator follows procedural due process guidelines, the suspension could be successfully challenged if the decision of the administrator to suspend a student for a particular misbehavior is judged to be unreasonable by the court. Even if the decision to suspend is reasonable, the suspension could be challenged on the ground that the degree of punishment (number of days of suspension) is unreasonable for the particular student transgression.⁸

The federal courts have announced their willingness to hear cases where the discretion of the school administrator in suspending students is being challenged.⁹ For the future school administrators will have to do more than carefully follow procedural due process guidelines in suspending students if they wish to prevent legal problems from occur-

⁷ See, Goss, supra, n. 1 at 580-81.

⁸ Id.

⁹ Whitfield v. Simpson, 312 F. Supp. 889 (E.D. Ill. 1970).

ring. Knowledge of the substantive elements of due process as determined by the principles of Fundamental Fairness and Fair Warning will be required.

Purpose of the Study

The purpose of this study was to provide the basis for which administrative approaches could be developed for the identification of weaknesses within student suspension systems in order to prevent student rights challenges from occurring on the grounds that substantive due process was not provided. Analyses centered on two major foci: First, ascertain the level of substantive due process as measured by "Fundamental Fairness" and "Fair Warning" that is recognized by student suspension administrators. Second, determine whether there are relationships between the level of due process recognition and school/administrator characteristics.

In ascertaining the relative extent to which substantive due process is recognized by student suspension administrators, something can be implied about the future direction of litigation involving suspension challenges. Knowing the relationship between the provision of substantive due process and school characteristics can assist school authorities in modifying their student suspension policies and practices.

Hypotheses of the Study

The following are the null hypotheses developed for analysis in this study:

1. There is no significant relationship between the size of high school enrollments and the level of recognition of substantive due process in student suspensions.
2. There is no significant relationship between the geographic location of high schools and the level of recognition of substantive due process in student suspensions.
3. There is no significant relationship between the number of students being suspended and the level of recognition of substantive due process in student suspension.
4. There is no significant relationship between the percent of racial minorities present in the school student population and the level of recognition of substantive due process in student suspensions.
5. There is no significant relationship between the percent of racial minorities being suspended and the level of recognition of substantive due process in student suspensions.
6. There is no significant relationship between the percent of males present in the school population and the level of recognition of substantive due process in student suspensions.
7. There is no significant relationship between the percent of males being suspended and the level of recogni-

tion of substantive due process in student suspensions.

8. There is no significant relationship between the percent of students that were eligible in Title I programs and level of recognition of substantive due process in student suspensions.

9. There is no significant relationship between the percent of Title I students that were suspended and the level of recognition of substantive due process in student suspensions.

10. There is no significant relationship between the level of formalized training in school law of high school student disciplinarians and the level of recognition of substantive due process in student suspensions.

11. There is no significant relationship between the number of years of administrative experience of high school principals and the level of recognition of substantive due process in student suspensions.

12. There is no significant relationship between the existence of written rules of behavior for students and the level of recognition of substantive due process in student suspensions.

Description of the Target Population

Study participants included student discipline administrators from public high schools across the State of Illinois. Respondents held a variety of administrative

titles. Student suspension administrators in larger high schools (enrollments 1,000 to 3,000) tended to hold the title of Dean of Students or Assistant Principal. Those participating administrators in high schools with enrollments below 1,000 tended to hold the title of Principal. Other titles of administrators that responded were Superintendent, Dean of Boys, Dean of Girls, Counselor and Associate Principal.

Regardless of title, the administrators shared one common characteristic--they were the one administrator in their building that was primarily responsible for making decisions concerning the suspension of students. The number of years of experience of the respondents as an administrator with authority to suspend students ranged from one year to 27 years. The majority of the respondents (84.7%) had taken a college course in School Law.

Once the participants were drawn by random sample, regional patterns emerged. For study purposes, the State of Illinois was divided into five regions (Figure 1). Region I represents the Chicago Metropolitan Area and Collar Counties. Region II represents Northern Illinois. Region III represents West Central Illinois. Region IV represents East Central Illinois. Region V represents Southern Illinois. Schools that were drawn at random to participate in the study, were located in each of the five regions. Those that responded were also located in each of the five regions.

As a result of random draw, high schools located in 81 of the 102 counties in Illinois were asked to participate in the study. The administrators that did participate in the study served in communities that were urban, suburban, rural and semi-rural.

Limitations of the Study

The study was conducted with the following limitations:

1. Public high school administrators were chosen because the issues surrounding student rights is primarily a public secondary school problem. In addition, most of the prior research as well as judicial holdings concerning student suspension apply to the high school setting.

2. In order to help insure external validity, only those administrators serving in public high schools with enrollments between 100 and 3,000 were considered. Those below 100 and above 3,000 represent extremes among the high school population in Illinois.

3. So as to reduce any negative effects upon the internal validity of the research, the study was limited to those administrators that functioned in their high school buildings as student disciplinarians with the authority to suspend students. While several administrators in the same high school may have the authority to suspend students, the

study only included those administrators who routinely made the decisions regarding suspensions.

4. The research was limited to public high school administrators within the State of Illinois. Illinois was chosen as a population because researcher control could be achieved at a higher level as opposed to a national or regional population. In addition, many of the relative legal holdings pertaining to this study have emanated from Illinois.

Methods and Procedures

The 1980-81 Illinois Public School Districts and Schools directory was used as the basis for identifying the public high schools in Illinois within the limitations of the study. As of January, 1981 there were 755 public high schools in Illinois. Among those schools, 63 had enrollments below 100 students and 13 had enrollments in excess of 3,000 students.¹⁰ Therefore, 76 public high schools were subtracted from the total population of 755 before assigning random numbers to each school.

Numbers ranging from 000 to 678 were assigned to each public high school that was to be part of the research universe. A sample size of 300 was then selected to be

¹⁰ Research and Statistics Section, Illinois State Board of Education.

drawn at random with the use of a table of random numbers.¹¹ The table consisted of four pages of five digit numbers. Since the sample size did not exceed three digits, only the first three digits of each number was used for the random selection process. A starting point in the table was selected by a device designed to avoid a purposive selection of a particular school from the population. In order to select a page in which to start, a coin was flipped twice using the sequence TH for the first page of the table, HT for page 2, HH for pages 3 and TT for page 4. HH was obtained as a result; therefore, the table was entered at page 3. A point on the page was determined by staring off into space and plopping the dominant index finger down on the page. The unseen digit covered by the finger became the starting point. It was decided to proceed down the columns, then return to the top of the next column to the right until 300 schools were obtained. Sets of numbers beyond 691 and those which already had occurred were discarded.¹²

Once the 300 schools were obtained the three digit random numbers used in the drawing process remained with the schools as part of their identification. For research purposes, the numbers 1, 2, 3, 4 or 5 were assigned as the

¹¹Richard D. Remington and M. Anthony Schork, Statistics with Applications to the Biological and Health Sciences (Englewood Cliffs, N.J.: Prentice-Hall Inc., 1970), p. 96.

¹²RAND Corporation, A Million Random Digits with 100,000 Deviates (New York: The Free Press of Glencoe, 1955).

fourth digit to each of the 300 schools in the sample. The numbers 1 through 5 represent the five geographic regions within Illinois (Figure 1). The Illinois State Board of Education uses this division to assign proportionate services to schools through the Program Service Team.¹³ Professional educational organizations such as the Illinois School Psychologists Association use the same regional divisions as the State Board for membership and organization studies. Each school in the sample received a four digit identification number with the last digit representing the geographic region within Illinois. For discussion purposes the five regions could be called: Region I--Chicago Metropolitan and Collar Counties, Region II--Northern Illinois, Region III--West Central Illinois, Region IV--East Central Illinois and Region V--Southern Illinois.

As a result of the random draw, 81 (79%) out of the 102 counties in Illinois were represented in the study. The random distribution of schools among the five regions were as follows: 91 in Region I, 56 in Region II, 73 in Region III, 37 in Region IV, and 43 in Region V.

A packet of materials was mailed to each participating high school. In all cases the packets were addressed to the student disciplinarian in each school without using proper names of administrators. Each packet contained a

¹³Illinois State Board of Education, 1980-81 Illinois Public School Districts and Schools (Springfield: Government Printing Office, 1981), p. ii.

cover letter, a questionnaire and a self-addressed stamped envelope. The cover letter contained the following information: (1) Purpose and significance of the study, (2) The importance of the information to be furnished by the respondent, (3) How anonymity was to be guaranteed, and (4) A deadline date for return of the instrument (see Appendix A). The questionnaire itself was divided into two sections. Section one asked for background information on the school and the individual respondent. Section two asked the administrator to respond to eight hypothetical student suspension situations (see Appendix B). The postage-paid envelopes were addressed for return to the researcher's home. The respondents were also asked to send a copy of the official school rules governing student behavior. Since the size and weight of the school rules could not be determined by the researcher, a postage-paid envelope was not included. However, reimbursement was promised for both postage and copying costs. Of those schools that returned questionnaires, 57 (46.3%) also mailed copies of the school rules for student behavior.

In order to establish an acceptable rate of return as well as enhance the honesty of the study responses, the steps to be taken in guaranteeing the respondents' anonymity were outlined in the cover letter. It was pointed out that neither the respondent's name nor the name of their institution would ever be referred to in any reports. The four

digit code in the top right hand corner of their questionnaire was the only form of identification used. A summary of the study was promised as well as the offer to volunteer services as a guest speaker for any school groups they felt could benefit from hearing about the results of the study.

Instrumentation

The questionnaire developed for this study focused on the examination of the extent to which student discipline administrators in Illinois public high schools recognize substantive due process in student suspensions. The instrument consisted of two sections. Section one provided background information on the administrator-respondent and his/her school. Section two presented hypothetical conditions which the administrator was asked to superimpose on his/her school. A total of eight student suspension situations were posed. Four questions focused on the standard of Fundamental Fairness. The other four questions concerned Fair Warning. Both of these Constitutional standards are important in providing substantive due process to students in suspension cases. In each hypothetical case, the respondent was asked to indicate the extent to which he/she agreed with the decision to suspend students and the length of suspension, on a scale of 1 to 5.

The hypotheticals presented in section two were taken from actual court cases at the federal and state

levels. Therefore, the correct response to each of the eight was known to the researcher. A composite score for each school was derived by multiplying the respondent's choices (1, 2, 3, 4 or 5) by the weighting factor for each question. The weighting factors are related to the extent to which Fundamental Fairness and Fair Warning is involved in the facts of hypothetical.

The validity of the hypothetical questions and the applied weighting factors was determined with the aid of an expert panel of four lawyers. In providing content validation, the panel was to determine that the hypothetical questions were framed in a way that would allow for a measuring of the level of recognition of Fundamental Fairness or Fair Warning in student suspensions. In providing for the development of the weighting factors, the expert panel was asked to review each hypothetical and place a value as to the degree to which Fundamental Fairness and Fair Warning was involved. The panel responded on a scale of 1 to 5 as follows: 1 = Very Involved, 2 = Involved, 3 = Somewhat Involved, 4 = Little Involvement and 5 = Not Involved. The mean was calculated for each hypothetical from the tabulated responses of the four panel members. The mean response became the weighted index for each hypothetical.

¹⁴Armand J. Galfo and Earl Miller, Interpreting Educational Research (Dubuque: Brown Company, 1970, p. 30.

Prior to formal surveying, a stratified random sample of ten public high schools in Illinois was used to pilot the questionnaire and provide for general content and design validity. The pilot group was selected after the research sample was taken so as not to be mixed up with the members of the population used in the sample.¹⁴ So as pilot group membership was representative of the sample population, a random sample was drawn from the school population of each of the five regions in Illinois used in the study. The number of pilot members was proportionate by region to the number of schools in the sample. Therefore, four pilot schools were drawn from Region I; one pilot school drawn from Region II; three schools drawn from Region III; one school from Region IV and one school from Region V.

Each pilot school was asked to complete the questionnaire and invited to make written suggestions, comments, additions or deletions to the instrument. As a result of the pilot, adjustments were made to parts of the content and design of the instrument.

Definition of Terms

Student Suspension

Temporary exclusion from school for one to ten school days as a result of an administrative decision. In recent years, "in school" suspension has developed as an alternative to the traditional "out of school" suspension.

For purposes of this study, all statements concerning student suspensions refer to "out of school" suspension.

Procedural Due Process

Legally required procedures used in the course of student suspension, i.e., notices of charges, hearing, written letter informing parents of the suspension with notification of their right to appeal.

Procedural Safeguards

Orderly steps which if taken in the process of suspension is considered to afford the student Due Process of Law.

Substantive Due Process

Part of the Due Process Clause of the 5th and 14th Amendments to the Constitution which requires that schools treat students fairly.

Fundamental Fairness

Constitutional standard as applied to student suspensions requires that the punishment imposed be in proportion to the offense committed. Further, Fundamental Fairness requires that suspension not be imposed for a minor infraction of the rules or for the kind of conduct for which

other students in the past have received only mild punishment.

Fair Warning

The Constitutional standard which requires that a student has known or should have known he/she was violating a rule which could result in suspension before the suspension penalty be imposed. I.e., if the school administration decides it will punish students by suspension for going to the bathroom without permission, it must first give the student body "Fair Warning" of its intention before actually punishing students by suspension for a rule they do not know exists.

Student Suspension System

The methods and procedures employed by school authorities to affect student behavior by suspension. The system begins with the development of school board policy concerning suspension. It continues with the implementation of policy by rules of behavior for students and ends with an administrative practice for actually removing students through suspension.

Substantive Due Process Recognition

The extent to which school administrators might rec-

ognize the elements of Fundamental Fairness and Fair Warning in student suspension situations.

Background Information

Information gathered in this study which represents the basic characteristics of the institution and of the school administrator respondent.

Hypothetical

Set of facts presented to each respondent which represented a fictional student behavior situation that ended in suspension. Each hypothetical was based on actual court cases.

Student Suspension Case

A particular set of circumstances which led to an administrative decision to suspend one or more students.

Weighting Factors

The mathematical index for each hypothetical in the study which indicates the relative importance of the hypothetical to another as measured by the extent to which Fundamental Fairness and Fair Warning is involved in facts of each situation.

School Rules

The written rules of student behavior used in a high school which contain a description of those offenses which led to student suspension.

Summary

A description of the design and methodology employed in this study was presented in this chapter. Specific details concerning research procedures and the development of the survey instrument will be presented in Chapter III. The study focused on the relationship between the level of administrative recognition of substantive due process and administrator/school characteristics. Substantive due process was measured by the standards of Fundamental Fairness and Fair Warning.

A survey instrument specially developed for this study was used to gather the background information and responses of administrators to hypothetical student suspension situations. The questionnaire was validated by a panel of expert lawyers. A pilot study was also conducted as part of the instrument validating process.

CHAPTER II

REVIEW OF THE LITERATURE

Introduction

It has been observed that there is an absence of sufficient quantity and quality of student discipline research. Hollingsworth has stated that:

"The number of good state or school system level studies on student discipline is small. . . . Social scientists and educators have been slow to come forward with empirical studies using aggregate data sets.¹

William Clune of the Wisconsin Center for Education Research has suggested that student discipline research be directed at determining whether schools are living up to the norms of basic fairness. "The most stringent kind of research would be to define precisely the degrees and kinds of formalism which are expected and research how closely or distantly individual schools approximate the ideal."²

He goes on to point to the kinds of questions that should be asked in the conduct of school discipline research:

¹Ellen Jane Hollingsworth, "Introduction," Education and Urban Society 2 (August, 1979): 436-437.

²William H. Clune III, "Evaluating School Discipline Through Empirical Research," Education and Urban Society 2 (August, 1979): 440.

1. Are violations of fairness and rationality more frequent than is suggested by the "no problem" view of public school? Do students experience more harm from disciplinary decisions than is often believed?
2. Do reasonably attainable reforms in the direction of fairness seem to make a large or small difference in the frequency of error?
3. Are schools typically at a relatively low level with respect to the implementation of fairness, such that the least costly and intrusive changes are yet to be made? Or are schools relatively advanced, such that further changes in the direction of fairness would be costly?³

The issues of institutional fairness are brought out by examining more carefully the system or lack of system followed in student suspension. When examining student suspension research, the sparseness of information is striking. As recently as the fall of 1981, an ERIC search only produced 13 titles dealing with student suspension in the secondary school. Dissertation Abstracts produced 12 titles on the topic.

The vast majority of the student suspension research has dealt with procedural due process and particularly the impact of Constitutional guidelines on administrative authority. The focus of attention continues to be on reporting those court cases where suspensions are contested because of procedural violations. Nevertheless, student suspension cases concerning substantive due process are heard. Decisions of school administrators in suspension cases can

³Ibid. p. 447.

and are being reversed by the courts because of violations in those substantive areas of the Due Process Clause which require that a student be treated fairly. As Phay has noted:

Over time, the in loco parentis, doctrine was substantially modified, particularly as applied to secondary school pupils and the courts became more willing to examine school actions and to overturn those found arbitrary or unreasonable.⁴

Continuing to focus on suspension procedures will not provide the answers needed in the area of institutional fairness. Once more, school administrators' relying on procedural guidelines alone to keep them from legal problems are harboring a false security. The doctrine of substantive due process can impose a limitation on an administrative decision to suspend a student regardless of the adequacy of the procedures employed.

The research suggests very little about the extent to which school administrators can recognize the elements of fundamental fairness. In 1957, Professor Warren Seavey came to realize what he believed to be the level of understanding for Constitutional standards among administrators in the conduct of student discipline. "It is shocking that the officials of a state educational institution should not understand the elementary principles of fair play."⁵

⁴Robert E. Phay, The Law of Suspension and Exclusion: An Examination of the Substantive Issues in Controlling Student Conduct (Topeka: NOLPE, 1975), p. 6.

⁵Warren Seavey, "Dismissal of Students: 'Due Process,'" Harvard Law Review 70 (June, 1957): 1406-1407.

This study is designed to measure the extent to which school discipline administrators recognize the elements of fair play. The differential levels of recognition will be compared to variations in administrator and institutional characteristics in order to provide insight as to the influences of fair play recognition.

The Role of Substantive Due Process in
Student Suspension

No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States nor shall any State deprive any person of life, liberty, or property, without due process of law: nor deny to any person within its jurisdiction the equal protection of the laws.⁶

The Due Process Clause, while eloquent in context, is conceptually abstruse. Defining due process of law can be extremely difficult. Not a new problem, the Supreme Court commented several decades ago:

Due process is an elusive concept. Its exact boundaries are undefinable, and its content varies according to specific factual contexts . . . whether the Constitution requires that a particular right obtained in a specific proceeding depends upon a complexity of factors.⁷

The State Department of Education for South Dakota provided its school districts with a set of guidelines for providing due process for students in 1973. In the process of developing these guidelines, some attempt was made to

⁶U.S. Const. Amend. XIV.

⁷Hannah v. Larche, 363 U.S. 420, 442, 80 S. Ct. 1502, 4 L. Ed. 2d 1307 (1960).

answer the question--what is meant by due process of law? Discovering the difficulty in answering the question, the authors finally concluded, "Due process of law means different things in different situations, and consists of what the Supreme Court says it consists of."⁸

Over the years, the courts have attempted to clarify the concept of due process by speaking in terms of procedural due process or substantive due process. Briefly, procedural due process requires that orderly steps be taken to ensure that a citizen be treated fairly before some right be taken. In 1975 the Supreme Court provided the guidelines for procedural due process in the context of student suspension when it decided Goss v. Lopez.⁹ Because procedural due process involves a reference to specific guidelines, it is far easier to determine when there has been a violation as compared to a substantive due process violation. For procedural due process, either the points within the guidelines have been followed by the school administrator or they haven't.

On the other hand, substantive due process lies in the imprecise arena discussed earlier. It has to do with a number of things depending on how a court looks at the cir-

⁸South Dakota State Department of Education, Standards and Guidelines for Providing Due Process of Law to the South Dakota Student, 1973, p. 19.

⁹Goss v. Lopez, 419 U.S. 565, 95 S. Ct. 729, 42 L. Ed. 2d 725 (1975).

circumstances of the case. It is highly discretionary but nevertheless embraces the spirit of the need for fair treatment for all citizens--including students. In 1981 a federal district court attempted to provide some clear understanding or substantive due process in the school setting when it heard Petrey v. Flaughner.¹⁰

In the case, a student was expelled from public high school for smoking marijuana in school. The student claimed that expulsion was an excessive punishment for the transgression involved. Being excessive, the punishment was claimed to violate the student's right of substantive due process.

The Petrey court proceeded to review the Doctrine of Substantive Due Process. They opened by quoting from a description provided by the Harvard Law Review:

The doctrine that governmental deprivations of life, liberty or property are subject to limitations regardless of the adequacy of the procedures employed has come to be known as substantive due process.¹¹

The definition supports the notion that the school administrator's decision in suspending a student could be challenged even though the administrator has followed procedural guidelines. In looking at the history of substantive due process, the Petrey court noted the beginning in 1905

¹⁰ Petrey v. Flaughner, 505 F. Supp. 1087 (E.D. Ky, 1981).

¹¹ Comment, "Development in the Law--The Constitution and the Family," Harvard Law Review 93 (April, 1980): 1156.

with Lockner v. New York.¹² At that time the Supreme Court was willing to strike down a state statute that they considered to violate the guarantees of the Due Process Clause. The primary focus was on the preservation of economic liberties. In the years that followed, the courts found substantive due process violations in a number of statutes throughout the states.

The Petrey court concluded its historical review by pointing to more contemporary judicial wisdom in dealing with substantive due process issues:

Appropriate limits on substantive due process come not from drawing arbitrary lines but rather from careful respect for the teachings of the basic values that underlie our society.¹³

The court translated the approach into more precise terms in analyzing the facts of the case. They said:

If a penalty is so grossly disproportionate to the offense as to be arbitrary in the sense that it has no rational relation to any legitimate end, it may be a violation equal protection or substantive due process.¹⁴

The Dixon v. Alabama¹⁵ case in 1961 represents the beginning of the application of substantive due process to school discipline. In Dixon, the court concluded that the power of a school to exclude a student is limited.

¹²Locher v. New York, 198 U.S. 45, 25 S. Ct. 539, 49 L. Ed. 2d 937 (1905).

¹³Petrey, p. 1089.

¹⁴Id., p. 1091.

¹⁵Dixon v. Alabama State Board of Education, 294 F.2d 150 (5th Cir. 1981).

Turning then to the nature of the governmental power to expel the plaintiff. It must be conceded . . . that that power is not unlimited and cannot be arbitrarily exercised. Admittedly, there must be some reasonable and constitutional grounds for expulsion or the courts would have a duty to require reinstatement.¹⁶

The sixties saw the courts developing the concept of substantive due process for student discipline in terms of "reasonableness" requirements. An example of the reasonableness requirement is found in the 1966 case of Burnside v. Byars.¹⁷ A group of black students at a Mississippi public high school wore "freedom buttons" to school. The principal of the high school directed the students to remove the buttons. When the students failed to obey, the principal suspended the 35 students.

Later the students filed suit alleging their rights under the First and Fourteenth Amendments of the U.S. Constitution had been violated. The court found for the students and held:

We conclude after carefully examining all the evidence presented that the regulation forbidding the wearing of "freedom buttons" on school grounds is arbitrary and unreasonable. . . .¹⁸

The rationale behind the decision was that "the school is always bound by the requirement that the rules and regulations must be reasonable."¹⁹ While the Court was not

¹⁶Id. at 157.

¹⁷Burnside v. Byars, 363 F.2d 744 (5th Cir. 1966).

¹⁸Id. at 748.

¹⁹Id.

willing to admit that jurists should sit in judgment over the wisdom of school rules they did say they would decide "whether they [rules] are a reasonable exercise of the power and discretion of the school authorities."²⁰

As the reasonableness standard became established the courts began to consider the part administrator arbitrariness played in the denial of substantive due process for students. In 1968, the federal appeals court heard Jones v. State Bd. of Ed. of and for State of Tenn.²¹ Seventy students at the Tennessee A & I State University were given indefinite suspensions for being involved in a school cafeteria riot. The students claimed that the administration acted in a biased and arbitrary manner in the course of their suspensions.

In considering the complaints, the court contributed to a better understanding of the relationship between substantive due process and arbitrary or bias application of school rules. Before turning to this contribution, it's important to note that the court used the term "fundamental fairness" for the first time to represent the standard in providing substantive due process. It considered whether elements of administrator bias or arbitrariness were present as criteria for contaminating fundamental fairness. The

²⁰ Id.

²¹ Jones v. State Board of Education of and for State of Tennessee, 279 F. Supp. 190 (M.D. Tenn. 1968).

main thrust of the student's argument was that the faculty who collected the evidence and brought charges were the same faculty that judged the case.

While the rule of law incorporated into the students' strategy was impressive, the court did not feel that enough evidence was collected for the students to prove administrator bias.

Nor does the Court believe that the fact that two members of the F.A.C. testified against the plaintiffs is sufficient to constitute a denial of fundamental fairness and support that a fair hearing was denied because of the commingling of prosecutorial and adjudicatory functions.²²

By 1972 the courts were considering whether the punishment given a student was commensurate with the violation as a necessary analysis for fundamental fairness. In the case of Lee v. Macon County Bd. of Ed.²³ the court made it very clear when it would use its authority:

Such a case where a court should set aside an unduly severe punishment can, of course, arise. Clearly, for example, a school board could not constitutionally expel forever a pupil who had committed no offense other than being five minutes tardy one time.²⁴

Also decided in 1972, Cook v. Edwards²⁵ has become recognized as the leading case for establishing that exces-

²²Id. at 200.

²³Lee v. Macon County Board of Education, 490 F.2d 458 (5th Cir. 1974).

²⁴Id. at 460.

²⁵Cook v. Edwards, 341 F. Supp. 307 (D.N.H. 1972).

sive student punishments can be set aside on the grounds of fundamental fairness. In Cook, a 15 year old public high school student came to school intoxicated. There was no evidence that she created any kind of disturbance and it was clear that this was a first offense. The principal suspended the student indefinitely until some discovered psychological problems between the student and her parents could be remedied. The court reinstated the student holding that:

It is fundamentally unfair to keep a student out of school indefinitely because of difficulties between the student and her parents, unless those difficulties manifest themselves in a real threat to school discipline . . . the punishment of indefinite expulsion raises a serious question as to substantive due process.²⁶

From Dixon to Cook the development of substantive due process as applied to student suspension has taken over a decade. Beginning with the requirements of reasonableness, the courts expanded to include concerns for arbitrary or biased administrative action, fitting the punishment to the crime, to analyzing whether the punishment is excessive. In his unpublished Ph.D. dissertation, William Glasheen identified all cases from 1960 to 1973 dealing with suspension and expulsion. A total of 79 cases exist for that period. Glasheen observed that cases dealing with substantive due process were reported under one of the following requirements:

²⁶Id. at 311.

1. Rules Must Be Clearly Spelled Out.
2. Rules Must Be Reasonable.
3. Rules Must Be Communicated.
4. Rules Must Operate Equally.
5. Rules Must Be Free of Arbitrary Action.²⁷

All of the standards that have been developed by the courts to determine substantive due process in student suspension have come to be known as fundamental fairness. The holdings in the cases up to Cook are still being applied today. The background has sufficiently developed so as courts are confidently clear enough to use these holdings as Constitutional "tests" for substantive due process. In the recent 1981 case of Rose v. Nashua Board of Education,²⁸ there was a claim that students' suspension from riding the bus was violative of their substantive due process rights. The court said:

The appropriate test of determining whether the suspension prior to hearing and its application deprived students' parents and bus riders of due process is as set forth in Cook v. Edwards, 307 (D.N.H. 1972). That test requires that we weigh the severity of the punitive effect of the suspension against the severity of the conduct which occasioned the suspension.²⁹

²⁷William Thomas Glasheen, "Substantive and Procedural Guidelines for Affording Students Due Process in Suspension and Expulsion Proceedings" (Ph.D. dissertation, University of Utah, 1974).

²⁸Rose v. Nashua Board of Education, 506 F. Supp. 1366 (D.N.H. 1981).

²⁹Id. at 1372.

Just as the concept of fundamental fairness developed with its various standards which serves as criteria for determining the presence of substantive due process, the concept of Fair Warning evolved as a necessary element in providing substantive due process for students. The right to be guided by rules that are specific enough so as the ordinary person can do what is expected is well settled in due process law. As far back as 1925 the Supreme Court explained this principle in Connolly v. General Construction Co.³⁰

The terms of a penal statute creating a new offense must be sufficiently explicit to inform those who are subject to it what conduct on their part will render them liable to its penalties, is a well-recognized requirement, consonant alike with ordinary notions of fair play and the settled rules of law.

And a statute which either forbids or requires the doing of an act in terms so vague that men of common intelligence must necessarily guess at its meaning and differ as to its application, violates the first essential of due process of law.³¹

The application of the standard of Fair Warning to school discipline and student suspension can be traced to 1968 when a federal district court heard Kelly v. Metropolitan County Bd. of Ed. of Nashville.³² The legal action was brought by students of an all black public high school in

³⁰ Connolly v. General Construction Co., 269 U.S. 385, 46 S. Ct. 126, 70 L. Ed. 322 (1925).

³¹ Id. at 391.

³² Kelly v. Metropolitan County Board of Education of Nashville, 293 F. Supp. 385 (M.D. Tenn. 1968).

Nashville, Tennessee. The state athletic association suspended all team members from competition for one year. The student basketball players battered an opposing team after losing a game. The court held for the students because they found that the association had no written rules of conduct which outlined the penalty for the students' actions.

The imposition of penalties in the absence of prescribed standards of conduct is contrary to our basic sense of justice . . . no great inconvenience or burden is imposed upon a state agency by requiring it to specify the standards and rules to guide the actions of its subordinates and to delineate forms of punishment for the violation of such rules.³³

Following in the footsteps of Kelly, the next year brought the often cited case of Sullivan v. Houston Independent School District.³⁴ This action was instituted on behalf of two Houston public high school students who were suspended from school for their involvement in the production and distribution of a student newspaper. The school administration claimed that the newspaper was responsible for lowering the level of student conscientiousness throughout the school. However, there was nothing in the school rules that prohibited the newspaper and therefore the students had no fair warning that their actions would be punished. The court ordered the students reinstated and held that their suspension was unconstitutional. It reasoned:

³³Id. at 493 and 494.

³⁴Sullivan v. Houston Independent School District, 307 F. Supp. 1328 (S.D. Tex. 1969).

School rules probably do not need to be as narrow as criminal statutes but if school officials contemplate severe punishment they must do so on the basis of a rule which is drawn so as to reasonably inform the student what specific conduct is prescribed. Basic notions of justice and fair play require that no person shall be made to suffer for a breach unless standards of behavior have first been announced, for who is to decide what has been breached?³⁵

In 1970, the federal court for the Eastern District of Illinois heard the case of Whitfield v. Simpson.³⁶ The suit was brought by Marquitta Whitfield, a student at Cairo High School. Ms. Whitfield had been suspended for seven days by the principal for "singing" in school. Upon her return to school, she was again suspended for seven more days allegedly for "talking improperly" to a teacher and other acts of general gross disobedience. In bringing suit, it was claimed that the Illinois statute pertaining to suspension and expulsion of students is unconstitutional. The Illinois statute permits suspension or expulsion for gross disobedience or misconduct.³⁷

While the court did not find the Illinois statute unconstitutional, it did remind that "Duty imposed by a statute must be prescribed in terms definite enough to serve as guide for those who must comply with it."³⁸

³⁵ Id. at 1344 and 1345.

³⁶ Whitfield v. Simpson, 312 F. Supp. 889 (E.D. Ill. 1970).

³⁷ Ill. Rev. Stat., 1977, Ch. 122, Sec. 10-22.6.

³⁸ Whitfield, p. 896.

While the court was clear about the rule of law they were quoting, they simply did not believe the Illinois student suspension statute as constructed violated that rule. It should be noted that the three judge court that decided Whitfield was not unanimous. Judge Cummings vigorously dissented and filed a lengthy separate opinion.

Within two years, Illinois again became the proving ground for a Constitutional attack on its student suspension statute. In the case of Linwood v. Board of Education City of Peoria School District No. 150,³⁹ a 15 year old student was suspended from Peoria Manual High School for seven days for allegedly striking other students in the school halls. The student filed suit charging that the Illinois student suspension statute was void for vagueness. He claimed that the terms used in the statute to describe the proscribed conduct--"gross disobedience or misconduct"⁴⁰ did not lend sufficient guidance. On appeal, the court relied on Judge Cummings' dissent in Whitfield to examine the issues. The court recognized the power of the State of Illinois to suspend students for misconduct "providing preexisting rules reasonably define and interdict the conduct which may be so

³⁹ Linwood v. Board of Education of the City of Peoria, School District No. 150, 463 F.2d 763 (7th Cir.), cert. denied, 390 U.S. 1028, 88 S. Ct. 1416, 20 L. Ed. 2d 284 (1972).

⁴⁰ Ill. Rev. Stat., Ch. 122, Sec. 10-22.6b.

penalized."⁴¹ The court recognized that the Illinois statute was not sufficient to lend guidance for adequate compliance. They expected that local school districts would provide the specifics for their students:

This general standard, although insufficient in and of itself to operate as a rule to govern the actions of students, is adequate to guide, the local school board in defining the specific acts for which it proposes to apply the sanctions of suspension or expulsion.⁴²

Since the Manual High School where Dewayne Linwood attended did employ a local student behavior code, the court dismissed the Constitutional challenge and found for the school district. This case reminded Illinois school districts of the need for them to exercise their statutory duty to "adopt and enforce all necessary rules for the management and government of the public school of their district."⁴³ Every year since 1975, the Illinois State Board of Education has assisted local school boards in its legally required task of student behavior code development by publishing the pamphlet Students and Schools--Rights and Responsibilities.

The right of Fair Warning in suspension cases continues to be recognized today. In 1979, a Texas appeals court heard the case of Galveston Independent School Dis-

⁴¹Linwood, p. 768.

⁴²Id.

⁴³Ill. Rev. Stat., Ch. 122, Sec. 10-20.5.

trict v. Boothe.⁴⁴ David Boothe, a public high school student was caught with a small amount of marijuana just off school grounds. Following a hearing, David was expelled for one quarter of the school year by the Board of Education. The court decided for the student and ordered that he be reinstated. In doing so, the court held: "Rules and regulations upon which the expulsion was based were not specific enough to apprise the student of the nature of the conduct prescribed."⁴⁵

The record showed that the student's possession of marijuana was not on the school proper but was in a car parked on an adjacent street. David was verbally warned not to bring marijuana on the campus but it was not shown that possessing marijuana in a car parked on an adjacent street is "on campus." The administrative regulations indicated that the place where possession of marijuana was prohibited was "in our schools." The administration did not intend that the phrase should indicate a place of prohibition rather something general. Nevertheless, because the court considered the interpretation of the rule to be possibly unclear to the student, the expulsion was set aside. They said: "Before a student can be punished by expulsion for violation of a school rule, regulation, or policy, must

⁴⁴Galveston Independent School District v. Boothe,
590 S.W.2d 553 (1979).

⁴⁵Id. at 553.

fairly apprise him of the type of prohibited conduct by which he may be expelled."⁴⁶

It would seem that the need to establish clearly written rules for student behavior would be viewed as an aid to school administrators beyond being legally required. In her study of high school behavior codes, Patricia Lines pointed out: "A published code at least gives a student fair warning and is easier to challenge in the courts. Thus, even such a code can help prevent teachers and principals from imposing arbitrary rules."⁴⁷

A summary of the findings of the literature related to substantive due process shows that this Constitutional doctrine has its own history which includes its application to student suspension.

When substantive due process is seen as an issue in student suspension cases, the courts examine the presence of Fundamental Fairness and to some extent Fair Warning. One study was limited to reporting the general categories under which one would find substantive due process appearing in the case law. Other literature which was found to be substantive due process related was in the form of written information prepared by a state government agency for public school districts' guidance. Finally, some essays have been

⁴⁶Id. at 557.

⁴⁷Patricia M. Lines, "Codes for High School Students," Inequality in Education 8 (June, 1971): 25.

written by social scientists which encourage more investigation into the student discipline areas which are implicated by substantive due process standards.

This study will go forward to fully explore the extent to which substantive due process is recognized in Illinois public schools. Once the level of recognition is measured, this study will attempt to determine those factors which influence the presence or absence of substantive due process as reflected by the standards of fundamental fairness and fair warning.

Administrative Discretion and the Standards of Fairness

In this section, the influences of administrator characteristics over the student suspension scenario will be reviewed. The individual characteristics of the administrative authority has been viewed as part of the overall nature of student discipline as a function of discretionary justice. In their paper concerning the organizational context of school discipline, Chesler, Crowfoot and Bryant recognized:

Discipline policy is implemented by administrative officials, usually with a great deal of discretion. The discretion educators exercise is not just individual in nature, it is socially patterned discretion. This discretion supports current patterns of power, and the

prevailing culture of those people who exercise control.⁴⁸

Having much of his research interests in the concept of school administrator's discretionary justice, Michael Manley-Casimir contributed some important points with respect to the effect of court rulings on the schools.

The basic choice facing the school principal is whether or not to comply with judicial decisions affirming the constitutional rights of students and so reform or modify school policy, procedures and practices to reflect the directions charted by the courts.⁴⁹

Although the courts may require that administrators adopt certain approaches to ensure students' rights, there is no assurance this will happen. Manley-Casimir provided some explanations of the factors that operate as barriers to the implementation of judicial decisions. He points out that these barriers fall into three categories: philosophical-ideological, political-legal and organizational-administrative. When discussing the organizational-administrative barriers Manley-Casimir notes:

The traditional pattern of authority in the public school vests authority in the adults. Teachers and administrators stand in loco parentis to the student and possess extensive discretionary power. The principal

⁴⁸Mark Chesler, James Crowfoot, and Bunyan I. Bryant, Jr., "Organizational Context of School Discipline--Analytic Models and Policy Options," Education and Urban Society 2 (August, 1979): 497.

⁴⁹Michael E. Manley-Casimir, "Students' Rights," in The Principal in Metropolitan Schools, eds. Donald A. Erickson and Theodore L. Reller (Berkeley: McCutchan, 1979), p. 196.

has most of the discretionary power conferred by statute, board policy and custom.⁵⁰

Establishing that school administrators have wide discretion in student discipline provides the framework for going deeper into understanding the direction of discretion. What are the discretionary tendencies of school administrators? Put another way, do the attitudes of administrators toward student discipline influence the outcome of the status of students' rights in a particular school setting?

Bordenick studied the attitude of administrators toward the use of suspension. From his study, it seems as though administrators do feel suspension is basically a useful way of controlling student behavior. The results and conclusions of Bordenick's study were:

1. The majority of administrators believe suspension tends to increase respect for the teacher.
2. The majority of administrators do feel that suspension of one student, either positive or negative, has an effect on the behavior of other students.
3. A majority of administrators feel that suspension enhances the attainment of their educational objectives.
4. A majority of administrators believe that the use of suspension does have an effect, either positive or negative, on the future behavior of the student who is suspended.⁵¹

Just as the attitudes of administrators towards the

⁵⁰ Ibid., p. 199.

⁵¹ Frank G. Bordenick, "A Study of Attitudes Towards the Use and Value of Suspension in the Urban Public School" (Ph.D. dissertation, University of Pittsburgh, 1976).

suspension are positive, their attitudes about laws that would limit the use of suspension are negative. In 1981, Krasa studied the impact of a new California statute which was assumed to give students greater due process rights in the course of a suspension.⁵² Krasa reported that some educators had stated that the new legislation further erodes administrators' authority in the area of student discipline at a time when discipline remains one of the major problems confronting schools.

Krasa set out to determine whether providing staff in the district with facts pertaining to the legislation's real effect would cause a change in their negative opinion toward the law. Results of the attitudinal survey showed that administrators were very negative toward the legislation. Even after learning that the legislation had resulted in a 7% decrease in recidivism they remained overwhelmingly negative (88% did not change their opinion).

In the late seventies a two year study was conducted by the Center for Public Representation in Madison, Wisconsin concerning discipline problems in secondary public high schools. Trained observers watched principals and other administrators discipline students over an extended period

⁵²George P. Krasa, "The Impact of California's Suspension Legislation, AB 530/2191, Upon Junior High Students' Suspension Recidivism and Staff Attitudes in the Monterey Peninsula Unified School District" (Ed.D. dissertation, University of San Francisco, 1981).

of time. One of the chief researchers, Henry Lufler, reported some of the results of this study in an article written in 1979. Overall it was found that the disciplinary system is highly particularistic, dependent upon the attitudes of administrators.⁵³

In discussing the attitudes of administrators toward suspension, Lufler cited some actual examples of principals' comments: "One principal felt that suspensions were a 'waste of time' and 'never worked.' Another principal adopted what he called a 'book approach' to discipline and suspended large numbers of students."⁵⁴

It was concluded that what happens to a particular student in the disciplinary process depends on which administrator decides on the punishment.

Writing about the Wisconsin study sometime earlier in a report for the Phi Delta Kappan, Lufler said: "Because individual discretion permeates the system of discipline, it is necessary to consider whether discretion operates fairly."⁵⁵

It appears as though the school administrators' relationship to student suspension is one which is highly in-

⁵³Henry S. Lufler, Jr., "Debating With Untested Assumptions: The Need to Understand School Discipline," Education and Urban Society 2 (August, 1979): 457.

⁵⁴Ibid., p. 456.

⁵⁵Idem, "Discipline: A New Look At an Old Problem," Phi Delta Kappan 59 (February, 1978): 426.

dividualized. The introduction of more clearly defined procedural due process standards did not diminish the discretionary aspects of student suspension. However, this administrator discretion can lead to substantive due process inquiries. When an administrator exercises his discretion in student suspension, he always leaves open the door for a legal challenge that his discretion was arbitrary. As far back as 1937, the courts began talking about arbitrariness generally. In the case of Ohio Bell Telephone v. Public Utilities Commission, the Court said "protection from arbitrary action is the essence of substantive due process."⁵⁶

Much of the legal literature in connection with administrator arbitrariness was covered earlier in the chapter. However, no discussion of the effects of administrative discretion should come to a close without a reminder that the courts continue to review suspension cases where administrative arbitrariness is an issue. Recently the case of Pico v. Board of Education⁵⁷ was decided by a U.S. appeals court of the Second Circuit. The court reminded that:

Erratic, unfair and arbitrary administration of policy is as much to be feared as the contents of policy itself; not only must there be "narrow specificity" in the criteria applied, but there must be use of "sensitive tools" in their application.⁵⁸

⁵⁶ Ohio Bell Telephone Co. v. Public Utilities Commission of Ohio, 301 U.S. 292, 57 S. Ct. 724, 81 L. Ed. 1093 (1937).

⁵⁷ Pico v. Board of Education, Island Trees Union Free School District No. 26, 638 F.2d 404 (2d Cir. 1980).

⁵⁸ Id. at 405.

Racial Discrimination in Student Suspensions

For the first time in 1973, the Office of Civil Rights (OCR) conducted its National Survey of Public Elementary and Secondary Schools. The OCR surveyed almost 3,000 school districts, accounting for over 50% of the total enrollment in American public schools and about 90% of all minority students. School districts were asked to reveal the total number of students suspended and expelled during the academic year, the cumulative number of suspension days out of school and the racial and ethnic breakdowns of those figures.

Private groups such as The Children's Defense Fund have relied upon the OCR data to buttress their conclusion that minorities have been the victims of institutional and personal racism in their treatment by school authorities. Kaeser has observed that:

Suspension statistics indicate that minority students are suspended disproportionately compared with their share of the population. This occurs before desegregation and frequently becomes more serious after desegregation. Since there is little evidence to indicate that minority students are less well behaved than other children, there are serious problems of equal treatment in both the desegregated and nondesegregated contexts.⁵⁹

A report compiled by the National School Public Relations Association in 1976 supports claims that the suspension statistics may suggest racial discrimination:

⁵⁹ Susan C. Kaeser, "Suspensions in School Discipline," Education and Urban Society 2 (August, 1979): 467.

There is no doubt that some districts and individual schools have arbitrarily, overtly and covertly, suspended or expelled students for questionable reasons. Similarly, in some school systems, particularly those that have undergone desegregation, the number of black and other minority children who are suspended or expelled is disproportionate to their enrollment. Why this happens is being debated. Civil rights and child advocacy groups charge discrimination. Most educators deny it.⁶⁰

One of the most comprehensive studies of racial discrimination in student suspension was reported in 1974 by the Children's Defense Fund (CDF). The report School Suspensions: Are They Helping Children? was based on a large scale analysis of suspension data submitted to OCR. In addition, CDF surveyed 6,500 families in nine states and the District of Columbia and interviewed more than 300 officials and community leaders. The intent of the study was to look at suspension data for black students for the rate (the percent of black children who were excluded) and the disproportion (the difference between the suspension rates for black and white students). In justifying this focus the CDF said: "Both are important in evaluating how fair a school system may be in its discipline practices."⁶¹ The results show that Illinois had among the most dramatic suspension statistics. In revealing the twenty worst districts in the OCR

⁶⁰ National School Public Relations Association, Suspensions and Expulsions: Current Trends in School Policies and Programs (Arlington, Va.: NSPRA, 1976), p. 5.

⁶¹ Children's Defense Fund, School Suspensions: Are They Helping Children? (Washington, D.C.: Washington Research Project, Inc., 1975), p. 68.

survey for black student suspensions, Illinois was very much represented:⁶²

District	Percent of Black Student Enrollment Suspended
Joliet, Ill.	63.9
Proviso, Ill.	53.1
Bloom, Ill.	49.6
Central Union, Calif.	48.0
Zion-Benton, Ill.	47.2
Roseville, Calif.	43.6
Fremont, Ohio	42.2
Worth, Ill.	40.4
Thornton, Ill.	40.1
Merced Union, Calif.	40.0
North Chicago, Ill.	38.0
Oroville Union, Calif.	37.0
Millville, N.J.	36.5
Monmouth, N.J.	35.2
Ewing, N.J.	35.0
Bremen, Ill.	34.8
Delano, Calif.	33.6
S. Gloucester County, N.J.	33.2
Henderson, Ky.	33.0
Sweetwater, Calif.	32.2

Joliet Township High School District also was the highest in the nation in the difference between its black suspension rate and its white suspension rate. It suspended 1,240 of its 4,953 white students for a white suspension rate of 25.0%. The black rate (63.9%) therefore was 38.9% higher than the white rate. Two other districts in Illinois, Proviso and Bloom, also showed the same striking pattern.

The disparity in the suspension data prompted the CDF to conclude:

If characteristics of black children were truly responsible for high black suspension rates, we would not find such districts where blacks are not suspended disproportionately. Whether administrators consciously enforce different forms of segregation, whether they merely reflect community values and attitudes, or whether they fail to deal flexibly and creatively with curricula, teacher training, and modes of maintaining a good learning environment, it is the behavior of school administrators, rather than the behavior of children, which is in question.⁶³

The CDF asserted that their survey confirmed the patterns of discrimination indicated by the OCR data. While 4.4% of the children CDF surveyed were suspended at least once, 7.3% of the black children were suspended. At the secondary level, black students in their survey were suspended more than three times as often as white students--12.8% compared with 4.1%. A discriminatory pattern seemed apparent from the frequency with which minority students are suspended.

Lloyd Henderson, director of OCR's elementary and secondary education division in 1976, interviewed with the staff of the National School Public Relations Association as part of an effort to complete a project concerning suspensions. Henderson specifically wished to respond to the racially discriminatory statistics that appeared as a result of the OCR and CDF surveys. Henderson said:

We cannot ignore the statistical disparities in data on suspensions and expulsions of minority and nonminority students. We must try to explain these disparities. If we [the OCR] find that minority children are expelled or suspended for subjective offenses, that is, offenses

⁶³ Ibid., p. 70.

that are not clearly defined and are subject to widely different interpretations, while white children are suspended or expelled for objective offenses, then changes must be made. Subjective offenses must be defined clearly. If they can't be, then they cannot be used to punish students.⁶⁴

The Children's Defense Fund became actively involved in pursuing solutions to the racial discrimination situation in student suspensions. On December 19, 1974, the CDF formally proposed a plan to the OCR for determining what should constitute proof of discrimination. The CDF suggested that a prima facie case of discrimination could be established through the use of statistics which would support evidence in pointing to disparities between minority and nonminority suspension rates. Relying on Turner v. Fouche⁶⁵ the CDF pointed out that "The United States Supreme Court has been willing to accept statistical modes of proof in civil rights cases and has required the shifting of the burden of proof upon presentation of strong statistical evidence."⁶⁶ In Turner, the black residents of a Georgia County challenged the constitutionality of the statutory system used to select juries and school boards. The Court found that blacks made up over 60% of the citizens of the county but jury membership consistently only averaged 37% black. The Court held

⁶⁴NSPRA, p. 16.

⁶⁵Turner v. Fouche, 396 U.S. 346, 90 S. Ct. 532, 24 L. Ed. 2d 567 (1970).

⁶⁶Children's Defense Fund, School Suspensions, p. 174.

that the disparity in the statistics constituted a prima facie case of discrimination.

The CDF specifically recommended that the OCR adopt the Chi-Square Test to prove that any observed statistical disparity was significant. Relying on Chance v. Board of Examiners⁶⁷ the CDF argued that "without plowing any new legal ground, OCR could establish guidelines wherein certain statistical distributions will be presumed to constitute discrimination and which will compel a school district to demonstrate that it is not discriminating.

In Chance, the court specifically accepted the use of the "Chi-Square Test" which is a method using formulas generally accepted by statistical experts to determine whether an observed difference in any given sample is greater than that which would be expected on the basis of mere chance of probability."⁶⁸ Depending upon the size of the school system which would be undergoing an investigation, the CDF recommended three different tests that could be used.⁶⁹

Test I

In any school system with over 15,000 students, it

⁶⁷Chance v. Board of Education and Board of Education of the City of New York, 330 F. Supp. 203 (S.D.N.Y. 1971), aff'd, 458 F.2d 1167 (2d Cir. 1972).

⁶⁸330 F. Supp. at 212.

⁶⁹Children's Defense Fund, School Suspensions, p. 174-176.

shall be prima facie evidence of racial discrimination in the disciplinary process if the percentage figure of minority students disciplined relative to all students disciplined exceeds by 5 percent the percentage of minority students in the base population.

Test II

In any School system with 5,000-15,000 students, it shall be prima facie evidence of racial discrimination in the disciplinary process if the percentage of "minority" students disciplined relative to all students disciplined exceeds by 8 percent the percentage of "minority" students in the "base population."

Test III

In any school system with under 5,000 students, it shall be prima facie evidence of racial discrimination in the disciplinary process if the percentage of "minority" students disciplined relative to all students disciplined exceeds by 10 percent the percentage of "minority" students in the "base population."

Since 1973, the Department of Education, Office of Civil Rights has annually required school districts with minorities to submit suspension data. The results of the most recent survey (1980) were made available in March, 1982. It shows that the disparity in white versus minority suspension rates is worse than in 1973. The figures are for

students that were suspended at least once during the school year.

Department of Education Office for Civil Rights
1980 Elementary and Secondary Schools Civil Rights Survey
National Summary of Reported Data.⁷⁰

		<u>Minority</u>	<u>White</u>	<u>Total</u>
Enrollment:	Number	9,129,607	19,366,847	28,496,454
	Percent	32.0	68.0	100.0
Suspensions	Number	725,677	958,332	1,684,009
	Percent	43.1	56.9	100.0

The rate at which minority students were suspended was 11.1% higher than their percentage in the base population (43.1% compared to 32.0%). Even if test III (statistically the most lenient) of the CDF proposal were applied to the current data, the 11.1% exceeds the 10 percent standard. The current data strongly suggest that racial discrimination in student suspensions still exists on a nationwide scale.

In the State of Illinois, overall suspension rates have gone up dramatically since 1973. The most recent public high school student suspension rates in Illinois strongly suggest racial discrimination along the CDF guidelines.⁷¹

The following statistics apply to Illinois public

⁷⁰1980 Elementary and Secondary School Civil Rights Survey, forms AS/CR 101 and AS/CR 102, National Summaries, March, 1982, Table 2.

⁷¹Research and Statistics Section, Illinois State Board of Education, 1980-81.

high school students suspended at least once during the 1980-81 school year.

Illinois Public H.S. Suspension Summaries 1980-81

		<u>Minority</u>	<u>White</u>	<u>Total</u>
Enrollment:	Number	155,972	403,920	619,892
	Percent	25.16	74.84	100.0
Suspensions:	Number	40,335	48,170	88,505
	Percent	45.57	54.43	100.0

The figures show that the rate at which minorities were suspended was 20.41% higher than their percentage in the base population. This rate far exceeds the 10% standard.

Given that the suspension statistics do suggest racial discrimination, what are the consequences for school districts which produce these statistical disparities? In an article which considers the question, Professor of Law Mark Yudof has said:

The question is not whether there is disproportional representation between racial groups--there surely is: the question is what logical conclusion should be drawn from that fact. The law has dealt with statistical evidence hearing on racial discrimination in an inconsistent manner.⁷²

In order to clarify the judicial response to racial discrimination in student suspensions, it is necessary to

⁷²Mark G. Yudof, "Suspension and Expulsion of Black Students from the Public Schools: Academic Capital Punishment and the Constitution," in The Courts, Social Science and School Desegregation, eds. B. Levin and W.D. Hawley (New Brunswick, N.J.: Transaction Press, 1977), p. 375.

review the most recognized case law in connection with the issue.

The earliest school suspension case in which the disproportionate exclusion of minorities was challenged is Tillman v. Dade County School Board.⁷³ The evidence showed that there was a fight among a large number of black and white high school students. During the disruption, property was damaged. While both black and white students were involved, 87 of the 93 students suspended were blacks. The school administration alleged that the disparity in the black/white student suspensions were a matter of circumstances and couldn't be avoided. In attempting to separate the white and black students that were fighting, the police pushed the white students off the campus, while holding the blacks in one of the school buildings. Therefore, those left in the building were those easiest to identify and punish.

The court agreed with the argument of the school administration attributing the disparity to circumstance:

While it is true that when figures speak courts listen . . . it is apparent from a review of all the evidence in this case that the figures alone do not tell the whole story and consequently are not determinative of this issue.

. . . The fact that Blacks were apprehended and many more Blacks than Whites suspended was nothing more than

⁷³Tillman v. Dade County School Board, 327 F. Supp. 930 (S.D. Fla. 1971).

a fortuitous circumstance, a result of their physical location.⁷⁴

Contrary to two earlier decisions namely Turner and Chance, the Tillman court did not accept clear statistical evidence as sufficient grounds for a prima facie case of racial discrimination. While Turner and Chance concerned the issue of racial discrimination by a public agency as did Tillman, Tillman can be distinguished by the fact that it dealt with a school discipline matter. Perhaps the court did not want to make a bold leap from jury membership (Turner) and teacher qualifying examinations (Chance) to the sticky area of student discipline.

Two years later, in Rhyne v. Childs,⁷⁵ the courts were still reluctant to apply statistical disparities alone as evidence in student suspensions. In that case, black and white students at a Florida public high school were allegedly engaged in what the school administration called "general melee." As a result of the disorders, classes were cancelled for the day. Several days later, further disturbances occurred along with a boycott by black students. The record showed that nearly all of the students that were disciplined were black even though an equal proportion of whites had been involved in the disturbances. The black students filed suit claiming that a pattern of racial dis-

⁷⁴Id. at 932.

⁷⁵Rhyne v. Childs, 359 F. Supp. 1085 (N.D. Fla. 1973).

crimination existed in their being disciplined. The court responded:

The Court has considered the evidence, which standing alone, would constitute impressive, if not persuasive, statistics. But this allegation of discrimination must be viewed in light of all the testimony adduced, particularly that of five county school administrators whose testimony disclosed that this statistical disparity of suspensions of blacks vis-a-vis that of whites resulted in the main from the decision of black students to forego corporal punishment when a breach of discipline occurred and elect instead to be suspended from their classes. By the same token the record is not devoid of instances where defendants have expelled or suspended white students for similar breaches of discipline.⁷⁶

Regardless of the statistical showing of disparity, the court adopted the corporal punishment rationale and thus avoided having to find racial discrimination.

Finally in 1974, the courts lifted their unwillingness to enter the picture.⁷⁷ The first successful constitutional attack on minority suspension viewed as a case of racial discrimination came with Hawkins v. Coleman.⁷⁷ The Dallas Independent School District (DISD) had been directed to desegregate its system by court order. Students were reassigned to different schools so as to achieve racial balance. Shortly after the desegregation program began, large numbers of minority students were suspended; this continued for most of the first year. The minority students brought a class action claiming that the school rules were applied in

⁷⁶Id. at 1090.

⁷⁷Hawkins v. Coleman, 376 F. Supp. 1330 (N.D. Tex. 1974).

a racially discriminatory manner. Statistical evidence revealed that over 60% of the students suspended in 1972-73 were minorities. However, minority students in the base population was only 38%.

In examining the basis for these statistics, the court concluded that racial discrimination did exist:

The DISD fit into an existing national pattern of race discrimination in that the DISD is a white controlled institution with institutional racism existing in the operation of its discipline procedures. Institutional racism exists when the standard operating procedures of an institution are prejudiced against derogatory to or unresponsive to the needs of a particular racial group.⁷⁸

The court directed the DISD to "review its present program and to put into effect an affirmative program primed at materially lessening white institutional racism."⁷⁹

The series of cases dealing with statistical evidence showing racial discrimination in student suspension were Tillman, Rhyne, and Hawkins. There seems to be a pattern in all of the cases that can be formed into an understandable position of the courts. Yudof, who has studied these cases, provides an excellent summary:

Perhaps the principle underlying these cases is not so difficult to discern. What the courts may be saying is that a statistical showing of inequalities between the races in the enjoyment of public benefits is always relevant to the disposition of the case. It is sufficient in itself, however, only where the disproportionality is of such a magnitude as to make any nonracial explanation implausible or where, despite some lesser

⁷⁸Id. at 1336.

⁷⁹Id. at 1338.

showing, there appears to be no rational, racially neutral explanation for the pattern of allocations.⁸⁰

The issues surrounding statistical evidence showing racial discrimination in student suspension has direct meaning for substantive due process. Where racial discrimination is found to operate in the suspension of students, there can be no substantive due process. Given that the essence of substantive due process is fair play, administrators that discriminate along racial lines are far from fundamental fairness. Therefore, a plausible conclusion might be that the greater the number of minorities being suspended, the greater the risk of racial discrimination and the less the provision of substantive due process.

Students' Sex as Related to Suspension

There is very little information concerning the relationship of the students' sex to suspension. Part of the reason for the lack of information, rests with the failure of government agencies in collecting data on the male/female categorization. When the Office of Civil Rights began collecting data in 1973, it did not request sex of suspended children. However, in their own survey the Children's Defense Fund collected sex related suspension information. Between July, 1973 and March, 1974, the CDF sampled over 7,000 children of all races across the United States. Of

⁸⁰Yudof, p. 376.

the 330 children that were suspended at least once, 204 (61.8%) were male and 126 (38.2%) were female.⁸¹

Although the OCR did not begin by asking school districts for sex related information as part of their annual survey, the most recent survey released in March, 1982 does provide sex information. The following is an excerpt from Table 2 of the OCR 1980 Elementary and Secondary Schools Survey--National Summary of Reported Data:⁸²

		<u>Male</u>	<u>Female</u>	<u>Total</u>
Enrollment:	Number	14,616,530	13,878,730	28,495,260
	Percent	51.3	48.7	100.0
Suspensions:	Number	1,164,324	526,355	1,690,679
	Percent	69.1	30.9	100.0

The observed difference between the percent of males and females suspended is great. Male students were suspended at a rate which was 17.8% higher than their percentage in the base population. The differences between the male and female rates (69.1 percent to 30.9 percent) is even greater than the differences found in the 1974 CDF survey.

The observed differences in male/female suspension for Illinois are as similarly disproportionate as the national statistics. The Research and Statistics Section of the Illinois State Board of Education provided the following data which was collected for the 1980-81 school year and

⁸¹Children's Defense Fund, Children Out of School in America (Washington, D.C.: Washington Research Project, Inc., 1974), p. 129.

⁸²1980 Elementary and Secondary School Civil Rights Survey, March, 1982.

applies to secondary public education students only:

		<u>Male</u>	<u>Female</u>	<u>Total</u>
Enrollment:	Number	319,548	300,344	619,892
	Percent	51.5	48.5	100.0
Suspensions:	Number	57,956	30,549	88,505
	Percent	65.4	34.6	100.0

The figures show that the male students were suspended at a rate which was 13.9% higher than their percentage in the base population. The disparity in the suspension rates at both the national and state levels suggests confirmation of some earlier findings by Glasheen. He determined that between 1960 and 1973 there were a total of 79 cases dealing with student suspensions. Of all these cases only seven dealt with female students⁸³

The question is what do these disparities in suspension rates suggest? Is there a significant relationship between the number of males or females being suspended and the extent to which institutional due process exists?

In 1978, Brumbach investigated the relationship between the personality modalities of an individual and the number of days of suspension from a public high school. This was further differentiated by race, sex, and grade. Brumbach found no significant relationship between the suspension rate and the sex of the student.⁸⁴

⁸³Glasheen, Ph.D. dissertation.

⁸⁴Linwood Brumbach, "A Study of the Personality Modalities of W. R. Bion and Their Relationship to a Number of Days of Suspension by Race, Sex and Grade" (Ph.D. dissertation, George Peabody College for Teachers, 1978).

The present research will attempt to uncover additional understanding of the relationship between suspension and the sex of the student. More specifically, do high schools which suspend a disproportionate amount of male students also rate low on a measure of substantive due process? Might the disparity in statistics suggest sex discrimination?

Class Discrimination in Student Suspensions

To date, neither the Office of Civil Rights nor any state governmental agency has collected information regarding school suspensions and social class. However, in 1974, the Children's Defense Fund conducted its own suspension survey. Part of the information that was collected included a poverty measure. Among the survey respondents, the number of children that came from families receiving AFDC or other public assistance was determined. It was found that children were more likely to be suspended if their families are poor. Thirty-one percent of all families surveyed with school-age children received AFDC or other public assistance, but 46% of children suspended came from families in this category.⁸⁵

Therefore, a 14% disparity exists between the percent of "poor" students suspended and the percent of

⁸⁵ Children's Defense Fund, p. 135.

"poor" students in the base population. The CDF interprets these findings as indicative of class discrimination in the use of suspensions. They have noted that "in school districts where there are few blacks, Puerto Rican or Chicanos, it is the lower-income children who often bear the disproportionate brunt of school official's disciplinary action."⁸⁶

In considering why children of lower-income families are suspended at a higher rate than other children, the CDF offered the following possibilities:

This may be the result of many school officials being more able to identify with and informally counsel middle-class parents rather than throwing their children out of school. Officials may also think middle-class parents will have greater political influence or be more likely to complain. Poor parents who have to work often do not have equal access and time to consult informally with school officials or may be more difficult to reach.⁸⁷

Observers of discrimination issues in student suspension such as Yudof have commented on the connection between minority exclusion and poverty. "Black exclusion also may be less of a race than a poverty problem. The types of antiinstitutional behavior ascribed to blacks is commonly ascribed to many low income groups."⁸⁸ Cottle believes that the association between poverty and race may illuminate the

⁸⁶Ibid., p. 134.

⁸⁷Ibid.

⁸⁸Yudof, P. 388.

reasons why a disproportionate number of blacks fall victim to institutional rules in schools: "Poverty is more prevalent among blacks, and the culture of the poor, emanating from the need to survive despite tremendous deprivation, may be inconsistent with the culture of schools."⁸⁹ If Yudof's hypothesis is correct, then legal rules and remedies geared exclusively to racial disparities may well miss the mark since poor whites are as much victimized by suspension and expulsion as minorities.

To date the case law which concerns social class discrimination has not yet been used in suspension challenges. The development of constitutional protections for low income students drew along the lines of being able to secure the same educational services as middle-class students. The first case was in 1967 when in Hobson v. Hanson⁹⁰ a federal court abolished the use of the track system of pupil classification. The court found that the method used by the Washington, D.C. public schools for providing school curriculum to its students was undemocratic and discriminatory.

Education in the lower tracks is geared to what Dr. Hansen, the creator of the track system calls the "blue collar" student. Thus such children, so stigmatized by inappropriate aptitude testing procedures, are denied

⁸⁹Thomas J. Cottle, "Dying a Different Sort of Death: The Exclusion of Children from School," School Review 83 (November 1974): 145-148.

⁹⁰Hobson v. Hanson, 269 F. Supp. 401 (D.D.C. 1967).

equal opportunity to obtain the white collar education available to the white and more affluent children.⁹¹

The concept of impermissible classifications based on wealth continues to be applied in school services areas. As recently as September, 1981, the federal court in Shaffer v. Board of School Directors⁹² ruled that the school district's system of providing bus transportation was unconstitutional. The facts in the case showed that the school district decided to provide only one-way bus transportation for kindergarten students even though it had the funds to supply round trip service. It was left up to parents to either pick-up or drop off their child. In effect, only those parents who could afford the transportation financially were those whose children were able to attend kindergarten. The court called the system arbitrary and therefore held:

The system constitutes an impermissible barrier to access of such children of low income individuals to enjoyment of the right to secure such educational opportunity, otherwise available to students not arbitrarily and adversely affected by such system.⁹³

If a relationship between race and poverty discrimination would be accepted by the courts, then statistical disparities in the suspension of middle versus lower income students might be accepted as evidence for a prima facie case of discrimination as with race.

⁹¹Id., p. 407.

⁹²Shaffer v. Board of School Directors, 522 F. Supp. 1138 (W.D. Penn. 1981).

⁹³Id., p. 1142.

It seems probable that it is only a matter of time before the wealth classification restrictions are used for suspension challenges.

Summary

This chapter reviewed the literature in five areas related to the study:

1. The Role of Substantive Due Process in Suspensions.
2. Administrative Discretion and the Standards of Fairness.
3. Racial Discrimination in Student Suspensions.
4. Students' Sex as Related to Suspensions.
5. Class Discrimination in Student Suspensions.

While there is a significant dearth of all student discipline research, the studies that do exist tend to focus on procedural due process. Information on whether or not school administrators understand and comply with procedural guidelines has predominated. However, the courts have stated on a number of occasions that a student's suspension may be unconstitutional regardless of procedural regularity. The standards of fundamental fairness and fair warning are part of the essence of due process. These elements of substantive due process must be present in every student suspension. It is the school administrator that must ensure that the student is provided substantive due process. There

is no information available that suggests to what extent administrators can demonstrate fair play.

This study is designed to investigate the extent to which school discipline administrators recognize the elements of substantive due process as measured by fair play and fair warning in student suspensions. The differential levels of recognition will be compared to variations in administrator and institutional characteristics in order to provide insight as to the influences of fair play and fair warning recognition.

CHAPTER III

PRESENTATION OF DATA

In this chapter, specifics concerning the methods and procedures will be presented. The study design will be discussed as well as the development of the survey instrument.

Development of the Instrument

Since no survey instrument exists that would serve the purposes of the study, an original instrument needed to be developed. Section one of the instrument asked for information concerning the background of both the school and the individual administrator respondent. Section two of the instrument asked that the administrator respond to a series of eight student behavior situations.

A total of 12 questions were asked in section one. The first eight and question 12 focused on institutional characteristics. Except for question 12 which only required a yes/no answer, all questions concerning institutional characteristics required that the respondent fill in the blank with a specific number. All information was requested for the 1980-81 school year. This format allowed the researcher to obtain continuous data. The nature of the data

lent itself to classification on an interval scale which provides more precision that is available when ordinal scales are used.¹

Background information concerning institutional characteristics was requested according to the following categories:

1. Total enrollment.
2. Percent of male students enrolled.
3. Percent of enrollment that was suspended.
4. Percent of students suspended that was male.
5. Percent of enrollment that could be classified as racial minority.
6. Percent of students suspended that was racial minority.
7. Percent of total enrollment that was eligible for Title I of ESEA.
8. Percent of students suspended that was Title I students.
9. Does school have written rules for behavior of students?

The categories of background information concerning administrator characteristics were requested as follows:

1. Formal training in School Law.

¹Donald Ary, Lucy Cheser Jacobs, and Asghar Raza-vieh, Introduction to Research in Education (New York: Holt, Rinehart and Winston, Inc., 1972), p. 94.

2. Number of years of experience in suspending students.
3. Official title of the administrator.

Eleven of the 12 background questions were used as the independent variables for the study. A twelfth independent variable was derived from the geographic location of the high school. The rationale for choosing the specific background question categories includes both general typology and school law considerations. Schools are often categorized by size for study purposes. The relative size of a high school has much to do with the way in which the institution is organized for instruction as well as predicated the range of school programs offered. The general characteristics of the school administration can be important in describing differences among schools. Since this study concerns administrative practices in connection with Constitutional issues, questions about percent of students suspended, their sex, race and possible socio-economic status are all important inquiries. The history of students rights tells us that problems can arise for school administrators when suspensions are undertaken without regard for the delicacies of sex, race and SES classifications.

In section two of the instrument, eight hypothetical student suspension situations were presented for the respondents' consideration. The purpose of section two was to determine the extent to which high school students in a par-

particular school might be afforded substantive due process as measured by the standards of Fundamental Fairness and Fair Warning. Directions to the respondent pointed out that their answers shall represent their professional view as if the situation described in the hypothetical were to happen at their school. Without these directions, the respondent might answer solely as an individual as opposed to an individual representing a particular institution. Although the individual student disciplinarian has much to do with the scope of student behavior in the school, the policies, practices and school characteristics combine with the individual disciplinarian to provide the resulting student behavior condition within the institution. School administrators responsible for student discipline are usually limited to some extent by student behavior codes and a variety of other factors. The disciplinarian can act as an individual but usually within boundaries. By directing the respondent to superimpose the described conditions on to his/her school, individual respondent bias was reduced. The superimposition of conditions onto the individual respondent's school requires that they consider the particular boundaries in which he/she must operate and to interpret the school policies and practices in answering the eight questions. Therefore, response generalizability was increased since many of the answers might be the same even if a different administrator within that institution were to answer. More than just a

measure of one administrator's views was achieved; the school as an institution was measured for providing substantive due process along Fundamental Fairness and Fair Warning standards.

After reading each hypothetical, the respondents were asked to indicate the extent to which they agreed with the decisions reached by the student disciplinarians portrayed in the question. Two answers were sought for every hypothetical as follows:

To what extent do you agree with the decision to suspend? (Circle your response)

5 4 3 2 1

To what extent do you agree with the length of the suspension? (Circle your response)

5 4 3 2 1

For every question, a hypothetical decision was reached to suspend one or more students for one to ten days. Administrators proceeded by circling their responses according to the following:

5. Strongly Agree with the decision.
4. Mildly Agree with the decision.
3. Undecided.
2. Mildly Disagree with the decision.
1. Strongly Disagree with the decision.

Predicated on the actual court decisions from which the hypotheticals were developed, in each case the stu-

dent(s) should not have been suspended. Therefore, the more the respondent indicated his/her disagreement with the decision, the higher the score.

Although participants were asked to indicate their agreement with the decision to suspend as well as the length of the suspension, only one area of inquiry was actually needed in each case. The focus of attention for questions 1 and 6 was on the length of the suspension. The other six questions were concerned with the decision to suspend the student(s) in the first place. Whether or not research interest was placed on the actual decision to suspend or the length of the decision was dependent on the way in which the standards of Fair Warning or Fundamental Fairness were bound to be hypothetical. The holdings of the court from which the hypotheticals were developed point to either "the decision to punish" or "the severity of punishment" as the deciding factor in whether the standards had been violated.

In questions 1 and 6 the correctness of deciding to suspend the students in question was obvious. In the court cases from which these hypotheticals were derived, the administrator's decision was overturned because of length of the suspension. Therefore, the research focus for these two questions was on responses to "To what extent do you agree with the length of the suspension?" In questions 2, 3, 4, 5, 7 and 8 the court had been concerned with the actual decision to suspend the student(s). Therefore, if the pro-

vision of Fundamental Fairness or Fair Warning hung on the decision to suspend in the first place, the length of suspension would not be relevant for the research at hand.

Since it was necessary to gain responses from the "decision to suspend" aspects of some of the questions and the "length of suspension" aspects of some of the others, an appropriate instrumentation strategy needed to be employed. If the participants were asked to respond to only the length aspects of two of the eight hypotheticals, they might sense researcher manipulation and try to anticipate that they were supposed to pick up on something different in the response process. So as to avoid giving unwanted cues to the participants, responses to both the "decision to suspend" and "length of the suspension" were requested. Although both responses were requested, only the necessary response (decision or length) was tallied.

Four hypotheticals were developed for each of the two standards of Fundamental Fairness and Fair Warning. Numbers 1 through 4 deal with Fair Warning. Numbers 5 through 8 deal with Fundamental Fairness. Four questions for each standard were developed so as to give the respondent a number of chances to identify factual student suspension situations where the Constitutional standard might be involved. In actual situations, the extent to which these Constitutional standards might be involved varies from case to case. Therefore, each of the eight hypotheticals contain

varying degrees of involvement with the standards of Fair Warning and Fundamental Fairness.

Expert Panel

An expert panel of lawyers was used in the study. In order to control for researcher bias, the panel membership was derived from a variety of individuals with legal expertise having differing interests in education and the field of school law. One member represented the administrator/school board interest. One member represented the student/parent interest while another represented the teacher interest. A final member was neutral having interest only in the research. As membership in the panel was finalized, lawyers representing the various interest areas were found in the following careers: law firm specializing in school law and primarily in the business of representing public school districts; public advocacy agency with a history of representing parents and students in suits against school districts; legal department of a large teacher union and a law school professor. Both telephoning and personal visits were made before finding lawyers who would serve on the panel. Once the membership was secured, a packet of materials was sent to their attention. The materials consisted of a cover letter, a special questionnaire designed for the membership, section one of the questionnaire to be used in the survey, a copy of the cover letter to be used

with the survey and a self-addressed stamped return envelope. The cover letter contained: (1) Directions for completing the validating instrument, (2) Purpose and significance of the study, (3) Importance of the information to be furnished by the panel member, (4) Guarantee of anonymity, and (5) Thanks for serving on the panel (see Appendix C). The panel members were given a copy of the cover letter and section one of the questionnaire so as they might get a "feel for" the entire survey process. Having background information on the study as well as actual materials intending to be sent placed the members in a better position to be of service. Of course section two of the questionnaire was in their hands in the form of the validating instrument. The final shape of section two would depend upon the input from the panel membership themselves. Each member worked independently of one another. No one individual knew of the other nor how many other members were on the panel.

The purposes of the panel were: (1) To provide for content validity of the survey instrument and determine whether the hypothetical questions in section two were framed in a way that would allow for a measuring of the level of substantive due process recognition through standards of Fair Warning and Fundamental Fairness. (2) To provide for the development of a weighting factor for each hypothetical.

The validating instrument provided the vehicle for the panel in carrying out its twofold purpose. The instrument that was given the panel was the same instrument that was intended for the survey research. However, the response format for the panel asked for a response that represented their professional legal opinion as to the extent to which the principle of Fair Warning and Fundamental Fairness was involved in each of the hypotheticals. Their responses were used to calculate the weighting factor for each hypothetical. In addition, the panel members were invited to add, subtract or rearrange the format or contents of the instrument. Suggestions for minor changes in the language of some of the hypotheticals were received from two of the members.

Weighting Factors

The weighting factor for each hypothetical was developed as a result of the nature of the data. Based on actual court cases, there exists a degree of variability in the extent to which the facts of each hypothetical involve the standards of Fair Warning and Fundamental Fairness. One of the tasks of the expert panel was to ascertain the precise differences in the extent of Constitutional standards involvement among the eight hypotheticals and to express these differences in mathematical terms.

For the first four hypotheticals, the panel was asked to read each question and indicate the extent to which

they saw the standard of Fair Warning involved in the hypothetical. The panel member simply responded by circling the number 5, 4, 3, 2 or 1 after each hypothetical. The scale of numbers represented the following:

- 5 Very Involved
- 4 Involved
- 3 Somewhat Involved
- 2 Little Involved
- 1 Not Involved

The second set of four hypotheticals was approached in the same manner except the panel member was asked to focus on Fundamental Fairness. The responses of each of the four panel members for each of the eight hypotheticals were tallied. A mean of the responses of the four members for a particular question represented the weighting factor. Table One shows that the individual panel members' responses were consistently of the opinion that the hypotheticals contained high degrees of involvement in the standards of Fair Warning and Fundamental Fairness.

If the responses of the panel members consistently indicated that the Constitutional standards were not present within the facts, major changes in the development of the hypotheticals would have been necessary. As it was, the pattern of responses clearly confirmed that the hypotheticals had been properly developed. No panel member thought that any of the hypotheticals were completely devoid of a

TABLE ONE

COMPUTATION OF THE MEAN FOR RESPONSES TO HYPOTHETICALS
IN DERIVING WEIGHTING FACTORS FOR DUE PROCESS QUESTIONS

INDIVIDUAL PANEL MEMBER	Fair Warning				Fundamental Fairness			
	Ques. 1	Ques. 2	Ques. 3	Ques. 4	Ques. 5	Ques. 6	Ques. 7	Ques. 8
#1	3	4	5	5	5	4	5	4
#2	3	4	5	2	4	3	4	2
#3	5	4	5	5	5	5	5	4
#4	4	3	5	4	5	5	5	5
Totals	15	15	20	16	19	17	20	15
\bar{X}	3.75	3.75	5	4	4.75	4.25	5	3.75
(Weight Factor)								

Constitutional issue. Only one panel member rated any of the factual situations contained in the hypotheticals as only having little involvement with Fair Warning or Fundamental Fairness. Table Two shows that the most common rating given the hypotheticals by the panel was at 5. The panel consensus was that the vast majority of the hypotheticals contained factual situations which were "very involved" in the standard of Fair Warning or Fundamental Fairness.

Calculation of the weighting factors reveals that in each set of four hypotheticals there is a range of the extent to which the Constitutional standards are present. For the first four hypotheticals, those dealing with Fair Warning, weighting factors ranged from 5 to 3.75. The second set of four hypotheticals, those dealing with Fundamental Fairness, also contained weighting factors from 5 to 3.75. In order to obtain a composite score from section two from each respondent, it was necessary to calculate the individual weighted score for each of the eight hypothetical questions answered. The respondent's choice on the scale of 5 to 1 for each question was multiplied by the weighting factor for that question. This calculation produced the weighted score for that hypothetical. The sum of all weighted scores was then calculated to produce the composite score for that particular school. The more the respondent indicated his/her disagreement with the decision made in the hypothetical, the higher the score received. Therefore,

TABLE TWO

FREQUENCY DISTRIBUTION OF SCORES GIVEN
SECTION TWO HYPOTHETICALS BY EXPERT PANEL*

<u>Scores (X)</u>	<u>Frequency</u>
5 Very Involved	17
4 Involved	9
3 Somewhat Involved	4
2 Little Involvement	2
1 Not Involved	<u>0</u>
	N=32

*represents combined responses of all four members

when calculating the weighted score for each question it was necessary to first convert the respondent choice by inverse proportion. A 5 = 1, 4 = 2, 2 = 4, and 1 = 5. Of course 3 = 3. The converted score was then multiplied by the weight factor to produce the weighted score for that question. Example:

Assume a respondent chose a 2 (Mildly Disagree with the decision) for question #5. The weighting factor for question 5 is 4.75. The following steps would then take place.

1. Convert response 2 to 4
2. Multiply by weighting factor $4 \times 4.75=19$

The weighted score for question #5 would be 19. The process was repeated eight times since there were a total of eight hypotheticals for each school. The sum of the weighted scores became the composite substantive due process score for that school. This score was the dependent variable for each school.

Pilot Study

In order to insure instrument reliability, serious consideration was given in providing for appropriate piloting. Since a questionnaire usually improves with use, the instrument was given an initial inspection by individuals familiar with the area of knowledge being studied. As a

result of initial criticism, unsatisfactory items were eliminated and/or revised.

Following this initial inspection, the questionnaire was administered to a group similar to the intended respondents. A stratified random sample of ten public high schools in Illinois was used for the pilot. So as to avoid mixing pilot group with the final group, the sample was drawn first and then the pilot group was drawn from members of the population not included in the sample. A stratified random sample was used so as the ten schools in the pilot would more closely resemble the proportionate members of schools located among the five regions in Illinois that resulted from the study sample random draw. Therefore, the following numbers of schools drawn at random from the five regions were as follows: Region I - 4 pilot schools; Region II - 1 pilot school; Region III - 3 pilot schools; Region IV - 1 pilot school and Region V - 1 pilot school. Table Three shows the rationale for drawing a specific number of schools from a particular region. The number drawn is tied to the result of the random sample drawn for the study.

Pilot members were mailed a packet of materials. Each packet contained a cover letter and an exact copy of all items to be mailed to the study participants (cover letter, questionnaire and stamped envelope). The pilot members were also given a stamped return envelope. The cover letter addressed to the pilot group contained the following infor-

mation: (1) Directions to the member which outlined his/her tasks as part of the pilot group, (2) How the member came to be chosen, (3) How anonymity was to be guaranteed, and (4) An invitation to complete freedom in criticizing the contents and design of the instrument. (See Appendix D.)

A telephone follow-up was conducted for those members of the pilot study that did not respond after two weeks. In some cases it was necessary to re-mail a packet of materials. In one case, a pilot group member responded by saying he was not interested in participating. Since the "not interested" member represented the one school from Region V, it was necessary to replace that member with another. Therefore, a second stratified random sample of one was drawn from Region V to obtain the needed replacement.

The administration of the instrument to the pilot group unearthed some inadequacies in the questionnaire which led to an improved revision.

School Rules

One paragraph in the cover letter sent to study participants asked them to submit copies of their official school rules. It was pointed out that the researcher was seeking written school regulations and/or policies that were used to govern student behavior as well as an outline of those misbehaviors that lead to suspension.

TABLE THREE
 DISTRIBUTION OF PILOT SCHOOLS
 STRATIFIED BY RESULTS OF STUDY SAMPLE

Illinois Region	Distribution as Result of Random Sampling	Pilot Stratification
I	91	4
II	56	1
III	73	3
IV	37	1
V	<u>43</u>	<u>1</u>
	N=300	N=10

The purpose of obtaining this information was to add to the knowledge gained by responses to the questionnaire. The information provided by the school rules could help explain why certain relationships showed themselves to be significant.

In some cases the school rules governing student behavior and suspension were contained within school board policies. When this occurred, copies of those pages of the board policy were sent. In most cases, the desired information was in the form of a student behavior code typically produced as a handbook.

Reimbursement for the cost of typing and mailing the school rules was promised each participant. Nevertheless, the rate of return for school rules was less than for questionnaires. Much lower rates of return were expected for the school rules simply because of cost and inconvenience factors. Of those participants returning questionnaires 46.3% also returned school rules. The percentage of return provided a total of 57 specimens for analysis.

Summary

Since no instrument existed that could serve the purpose of the study, a specially designed instrument was developed. The instrument consists of two sections. Section one gained background information on school and administrators. Eleven of the 12 items in section one became the

independent variables for the study. A twelfth independent variable was derived from the geographic location of the high school. Section two posed eight student suspension hypotheticals to which student disciplinarians responded by indicating the extent to which they agreed with the decisions being reached in each of the hypotheticals. The scores from the responses to section two were used as a composite to measure the extent to which the Constitutional standards of Fair Warning and Fundamental Fairness were recognized. The composite scores from section two became the dependent variable for each school in the study.

An expert legal panel of legal scholars and practicing attorneys was used to aid in the development of the instrument. The panel provided for content validation and reliability in the instrument. In addition, the specific judgments of the panel as to the degree of substantive due process issues involved in each hypothetical was used to develop weighting factors for each question in section two.

The weighting factor for each hypothetical represented the relative extent to which Fair Warning and Fundamental Fairness was present within the circumstances represented in the questions. The response of the participant indicated the extent to which he/she agreed with the decision reached in the situation presented on a scale of 1 to 5. The respondent's choice was multiplied by the weighting factor for that question. The scores for all questions were

then tallied to produce the substantive due process composite for that school.

In addition to the return of the completed questionnaires, copies of the school rules governing behavior that could result in suspension were requested. The information provided by the written school rules was used to help explain why certain relationships between school/administrator characteristics and the recognition of substantive due process were significant.

CHAPTER IV

ANALYSIS OF DATA

Introduction

In this chapter the data collected in the study will be analyzed. Both descriptive and inferential statistics are used in the analyses. Tests of significance for each study hypothesis will be presented as a result of Bivariate Regression and Analysis of Variance techniques. An overall treatment of the data will be presented as a result of Multiple Regression Analysis.

It was decided in the early stages of the study that the most powerful statistics should be employed for the analysis of data. Perhaps more than any other statistical technique, regression analysis cuts across the disciplinary boundaries of the social sciences. As Kerlinger points out:

Behavioral research is being revolutionized by multivariate thinking and analysis. It can be said, I think, that regression analysis is the most powerful and useful modes of analysis available to the behavioral scientist.¹

The statistical techniques were used as part of a

¹Fred N. Kerlinger, Foundations of Behavioral Research, 2nd ed. (New York: Holt, Rinehart and Winston, Inc., 1973), p. 603.

computer data analysis program called Statistical Analysis System (SAS). Computer assisted analysis for multiple regression was accomplished by the STEPWISE procedure.

Description of Survey Return

Starting with an original 755 public high schools in Illinois, 76 schools were eliminated because they represented the extremes in the population. 63 had enrollments below 100 FTE and 13 had enrollments above 3,000 FTE. Therefore, the universe for the study consisted of 679.

The sample size of 300 schools represents 44% of the population which is more than double that suggested by researchers for sample size. Ary calls larger sample sizes those that are 10 to 20 percent of the accessible population.² Ary also suggests that the goal in a questionnaire study is typically 70 to 80 percent returns.³ Looked at another way, a goal for questionnaire return is 70 to 80 percent of 10 to 20 percent of the population. The average would translate to 11.2% of the population as a typical goal for returns.

This study produced 42.3% return which represents 18.4% of the population. 127 questionnaires were received;

²Donald Ary, Lucy Cheser Jacobs, and Asghar Razavieh, Introduction to Research in Education (New York: Holt, Rinehart and Winston, Inc., 1972), p. 167.

³Ibid., p. 171.

however, 11 questionnaires were not used due to their lack of completeness.

Table Four shows that a total of 127 questionnaires were received. Broken down by study regions, it can be seen that Northern Illinois and Chicago metro schools rate of return was much less than the rest of the State. The average rate of return for Regions III, IV and V was 52.6% as compared to only 31.5% for Regions I and II.

The differences in the rate of return between Northern Illinois/Chicago regions and the rest of the State might be related to the differences in size and complexity of the schools. The schools in Regions I and II tended to have larger enrollments. It is possible that the administrators in these larger schools feel more pressed for time than their colleagues in the rest of the State. Consequently, not as many student discipline administrators felt they had time to respond to the questionnaire.

Preliminary Analysis of the Data

Prior to analysis of each study hypothesis an overall analysis of the data was conducted. In order to enhance preliminary analysis, descriptive statistics are presented in Tables Five and Six. The means reported for Fair Warning and Fundamental Fairness refer to the sum of the scores for questions 1 through 4 and questions 5 through 8 respectively. Total substantive due process is the sum of the

TABLE FOUR
 NUMBER OF INSTRUMENTS SENT, RECEIVED
 AND PERCENTAGE OF RETURNS BY REGION

	Sent	Received	Percent Return
Region I (Chicago Metro and Collar Counties)	91	26	29%
Region II (Northern Illinois)	56	19	34%
Region III (West Central Illinois)	73	39	53%
Region IV (East Central Illinois)	37	20	54%
Region V (Southern Illinois)	43	23	51%
Total	300	127*	42.3%

*Number received represents 18.4% of Illinois Public High Schools

TABLE FIVE
DESCRIPTIVE STATISTICS
Substantive Due Process

<u>Statistic</u>	<u>Total Substantive Due Process</u>	<u>Fair Warning</u>	<u>Fundamental Fairness</u>
Mean	120.36	50.55	68.71
Standard Deviation	25.32	16.14	13.72

TABLE SIX

SUBSTANTIVE DUE PROCESS SCORES COMPARISONS

	Highest Possible Score (Represents 100% of Best Answers)	Lowest Possible Score	Mean Score Achieved	Mean Score Corrected to Percent of Answers
Total Substantive Due Process	171.25	34.25	120.36	70.28%
Fair Warning	82.50	16.50	50.55	61.27%
Fundamental Fairness	88.25	17.75	68.71	77.41%

scores for questions 1 through 8 or the entire section of the questionnaire which represents the dependent variables for the study.

Table Six reveals that the student disciplinarians' level of recognition of substantive due process as measured by the standards of Fundamental Fairness and Fair Warning are only minimally acceptable. The highest composite score possible for all eight questions was 171.25. Only one respondent achieved a perfect score. The mean score that was achieved by administrators was 120.36 or 70.28% of the best. It appears as though administrators can recognize the elements of Fundamental Fairness better than they can Fair Warning (77.41% of the best possible score compared to 61.2%).

Analysis of the Study Hypotheses

In this section a thorough analysis of the study hypotheses is presented. The data associated with each hypothesis was analyzed by computer as part of the Statistical Analysis System (SAS). Bivariate regression statistical analysis was employed in hypothesis one and hypotheses three through nine. Because the independent variables in hypotheses two, ten, eleven and twelve are grouped, analysis of variance (ANOVA) was used to analyze the data. Where regression analysis was done, t-ratio were calculated for statistical significance testing. Where ANOVA was utilized,

F-ratio was used for significance testing. A statistical association was considered significant if the t ratio or F ratio equalled or exceeded the .05 level of statistical significance. In each hypothesis, the dependent variable is represented by the mean of the substantive due process scores of all respondents. The dependent variable is referred as the level of recognition of substantive due process. The independent variable in each hypothesis is represented by various school and administrator characteristics.

Interpretation of the findings will be discussed for each hypothesis. Possible explanations for the findings will be explored along with implications for the field of school administration.

Hypothesis One

There is no significant relationship between the size of high school enrollments and the level of recognition of substantive due process in student suspensions.

The data associated with hypothesis one consists of the composite scores for recognizing substantive due process (dependent variable) and the full time enrollments in schools (independent variable). Summary statistics on the independent variable are provided in Table Seven.

TABLE SEVEN

Variable	Mean	Standard Deviation	N	Range
Full Time Student Enrollment (ENR)	882	725.02	116	2603

Since hypothesis one is being statistically treated by the use of regression analysis, it was necessary to assume a linear relationship between school enrollment and the substantive due process score. The end product of the regression analysis is to be able to specify a regression equation that can be used to predict and explain the dependent variable. The equation would be written: $\hat{Y} = a + bX$. In the equation, \hat{Y} = the predicted values of the dependent variable, a = intercept or constant and b = slope. X = value of the independent variable (ENR). Assuming linearity is justified on several grounds. First, numerous relationships have been found empirically to be linear. Second, theory is so weak that it is not certain what the nonlinear specification would be. Third, inspection of the data themselves may fail to suggest a clear alternative to the straight line model.

An inspection of the scatterplot of due process scores versus enrollment does not suggest a linear relationship. However, no clear nonlinear relationship alternative is discernible. In examining the adequacy of the explana-

tory variable (independent variable -ENR), Table Eight presents formal statistical testing.

TABLE EIGHT

Variable	Coefficient	SE	t	PR>t
Full Time Student Enrollment	.002	.003	.70	.48
CONSTANT	118.36	3.70	31.97	.0001
N = 116	$R^2 = .004$	s = 25.25		

When the standardized residuals are plotted against the independent variable, ENR, they appear to be randomly distributed about 0 and all lie between ± 2 . There is no pattern to the distribution; that is they do not change in a systematic way with the independent variable. Analysis of the residuals has proved positive and therefore a very important underlying assumption associated with regression analysis is satisfied. However, the failure of the scatterplot to suggest a linear relationship points to suspicion concerning the relationship in hypothesis one. Statistical testing confirms a lack of significance. As can be seen from Table Eight, the calculated value of t (.70) is not significant. The probability that the slope equals zero is .48. In addition, the coefficient of determination, R^2 , is so low that it places doubt on the usefulness of the independent variable (ENR) in explaining the dependent variable

(YSUM). $R^2 = .004$, means that ENR only accounts for four tenths of 1% of the variability. Therefore, null hypothesis one is accepted.

Being a retained null hypothesis, the most legitimate interpretation of hypothesis one is that evidence for a conclusion has not been observed. Accepting hypothesis one does not represent evidence that there is no relationship between the level of substantive due process recognition and the size of the student body. It can only be assumed that no relationship between the variables exists when the population is small enough so as a complete census can be done. The only other possibility is when the research involves very large samples such as the Coleman report (600,000 subjects).

Interpretation of hypothesis one must involve an exploration into the variety of reasons why the retained null hypothesis occurred. Some of the most common reasons why a retained null hypothesis occurs are:

1. The null hypothesis is false, but internal validity problems contaminated the investigation so badly that the actual relationship between variables could not be observed.
2. The null hypothesis is false, but the research design lacked the power to reject it.
3. The null hypothesis is in fact true.

Because the statistical treatment in hypothesis one involves regression analysis, there are additional possibil-

ities why failure occurred in uncovering statistical significance. These reasons are:

4. inadequate sample size
5. Type II error
6. specification error
7. restricted variance in the independent variable

It is not possible to know which reasons are true and therefore it cannot be claimed that any one reason should be considered in turn as a possibility with specific reference to the hypothesis at hand.

For hypothesis one, it is possible that internal validity problems contaminated the relationship but this is not likely as other reasons. The only internal validity problem encountered with hypothesis one is the same for all twelve hypotheses--other uncontrolled variables singly or in combination could influence the level of recognition of substantive due process. Uncontrolled variables are a bigger problem when the study involves the testing of a single hypothesis. It is difficult to know the extent to which other independent variables might be affecting the observed relationship. However, in this study, a research hypothesis was developed for each possible independent variable that could reasonably be related to due process recognition. Of course, it is still possible that some independent variable was overlooked or that some unknown extraneous variable is affecting the relationship.

The research design did not lack the power to reject the null hypothesis. Power is a function of the size of the sample, the heterogeneity of subjects with reference to the dependent variable and the nature of the statistic used to test the hypothesis. All of these factors were taken into account when planning the study.

The sample size was more than 65% larger than usually considered optimum in sampling techniques. Heterogeneity was high among student disciplinarian respondents. The number of years of administrative experience among respondents ranged from one to twenty-seven years. Some had formal training in school law (84.6%); others had none. Schools in which administrators served ranged in size from 108 to 2,711. Demographically schools were located in urban, suburban, rural and semi-rural communities with 81 of the 102 counties being represented in the sample. Scores on the dependent variable ranged from a low of 55.50 to 171.25 and represents scores near the lowest and absolutely the highest possible measures of the level of recognition of substantive due process.

The instrument used was specifically developed for this study. The hypotheses that were formulated included variables whose relationship is not known to any previous research nor does any theoretical framework suggest a relationship with any certainty. These factors were considered

as the basis for employing the most powerful appropriate statistic in testing the hypotheses.

Discussion of reason three, the null hypothesis is in fact true, shall be postponed until the more technical problem possibilities are covered. The question of inadequate sample size has already been shown to be an unlikely reason for failure to uncover statistical significance. The question of Type II error, accepting the null hypothesis when it is false, is also possible but not likely. Typical Type II error concerns appear when the researcher has chosen a .01 statistical significance level and the calculations show significance at the .05 level. Rightly so, the researcher might wonder if the significance level was set too high. The .05 level of significance was selected for this study. The calculations showed the value of t being highly lacking in statistical significance. The probability that Type II error was committed is among the most unlikely of all the possible reasons.

In considering the possibility that the regression equation has misspecified the relationship between enrollment and due process, the scatterplot analysis would be reconsidered. If the relationship follows a curve, rather than a straight line, this curvilinearity would be causing lack of statistical significance being shown. The curve is a typical alternate to the non-appearance of the linear pattern. However, in case of hypothesis one, the scatterplot

of enrollment versus due process scores shows no pattern of relationship. Neither linear nor any nonlinear patterns of any sort can be detected. The results of exploring misspecification as a reason for retaining hypothesis one lends some credence to the possibility that enrollment and due process are not related.

Variance restriction in the independent variable (ENR) as a reason for not finding statistical significance is highly remote. Enrollments ranged from 108 to 2711 with a 2603 statistical range. Among the 116 observations there were no schools that had the same enrollment. Therefore, there is almost no variance restriction in the independent variable.

Finally, the reason why statistical significance was not shown may be due to the fact that the null hypothesis is true. After exploring six different possibilities, the most likely reason shown was the possibility that the relationship between the variables was nonlinear. It was pointed out that the usual alternate to the linear relationship, the curve, could not be detected. If enrollment is in fact not related to the level of recognition of substantive due process in a significant way, it may be due to a number of interesting reasons.

The size of a school, its enrollment, is one of the most basic of all institutional characteristics. The school enrollment predicates programs, staff, budget and a number

of other factors that distinguish schools from one another. If the level of substantive due process recognition is not significantly related to this most important instructional characteristic it may be due to the possibility that the relationships lie more with individual administrator characteristics. Regardless of the size of the school, it may be the student disciplinarians' attitudes, training and experience that determine whether substantive due process will be high or low in a particular high school building.

Hypothesis Two

There is no significant relationship between the geographic location of high schools and the level of recognition of substantive due process in student suspensions.

The data for hypothesis two compares the level of recognition of substantive due process scores (YSUM) among five geographic regions within Illinois. The YSUM represents the dependent variable. The measures obtained as well as descriptive statistics for the random samples taken from each region are presented in Table Nine.

The means can be seen to differ from each other and from 120.36 which is the mean for all 116 schools. In order to determine whether the differences among these means are great enough to be statistically significant, Analysis of Variance (ANOVA) techniques were employed. Table Ten summarizes the results of the calculations.

TABLE NINE

Variable	Mean	Standard Deviation	N	Range
Region I YSUM	118.48	29.86	23	105.75
Region II YSUM	117.44	25.81	18	86.25
Region III YSUM	112.92	23.14	37	90.00
Region IV YSUM	130.38	17.94	18	64.00
Region V YSUM	129.87	24.51	20	97.50

TABLE TEN

Source of Variance	SS	df	MS	F	PR>F
Between groups	5899.59	4	1474.89	2.44	.05
Within groups	67120.45	111	604.68		
Total	73020.04	115			

The assumption underlying the analysis-of-variance procedure is that if the groups to be compared are truly random samples from the same population, then the between-groups mean square should not differ from the within-groups mean square by more than the amount we would expect from chance alone. As the difference between these mean squares increases, the F-ratio increases and the probability of the null hypothesis being correct decreases.

The end product of the ANOVA is the F-ratio. For hypothesis two, the F-ratio (2.44) is statistically significant at the .05 level. Therefore, null hypothesis two is rejected. With the rejection of hypothesis two, it can be said that the measures obtained from the five regions differ and the differences are greater than would be expected to exist by chance alone. Given that a significant difference was found, an attempt was made to find whether the significant difference was located between certain Regions.

A test used for this purpose is known as Tukey's Test. The results did not specify the specific location of

the difference. However, visual inspection of the YSUM means among the Regions show the greatest difference between Region IV (the highest scores) and Region III (the lowest scores).

What is it about the high schools of Region IV that allowed for the highest scores? Are the characteristics of the school organization or the school administrators different from that of other regions? Table Eleven compares the due process scores by a low medium and high range perspective. Region IV had no schools which were in the low range while having the greatest percentage of schools that scored in the highest range. The region with the poorest mean score, Region III, had the lowest percentage of schools that scored in the high range and the greatest percentage of schools that scored in the lower range.

In searching for an explanation for the finding of significant differences in the scores among the regions, both differences in institutional and administrator characteristics should be considered. Table Twelve shows that many of the characteristics associated with Region IV stand out in comparison with the other regions. In fact, Region IV has the most distinctive data in seven of the ten characteristics considered. The average enrollment of the schools in Region IV are the lowest among all regions. Region IV schools have the lowest percent of students suspended but the highest in percent of male students suspended. The dis-

TABLE ELEVEN

SUBSTANTIVE DUE PROCESS COMPOSITE SCORES BY REGION

	Percent of Schools with Low Scores 50-90	Percent of Schools with Medium Range Scores 91-130	Percent of Schools with High Scores 131-172
Region I	17.3	34.7	47.0
\bar{X} = 118.42 N = 23			
Region II	11.1	44.4	44.5
\bar{X} = 117.44 N = 18			
Region III	18.9	62.1	18.0
\bar{X} = 112.92 N = 37			
Region IV	0	44.4	55.6
\bar{X} = 130.38 N = 18			
Region V	15.0	35.0	50.0
\bar{X} = 129.87 N = 20			

TABLE TWELVE

COMPARISON OF INSTITUTIONAL AND
ADMINISTRATIVE CHARACTERISTICS BY REGION

Region	Enroll- ment	Percent Male	Percent Sus- pended	Percent Male Sus- pended	Percent Racial Minor- ities	Percent Racial Minor- ities Sus- pended	Percent Title I Stu- dents	Percent Title I Stu- dents Sus- pended	Aver- age Years Adm. Exp.	Percent Adm. had a Course in School Law
I N = 23	2,057	55.1	10.2	67.0	10.1	12.8	1.8	.3	9.4	86.9
II N = 18	938	53.6	11.3	59.7	5.3	6.6	3.8	2.6	10.1	83.3
III N = 37	578	52.7	7.6	62.7	.5	.8	4.7	8.0	6.3	86.4
IV N = 18	567	53.1	6.6	67.1	.9	2.5	8.1	9.6	4.3	94.1
V N = 20	672	50.7	7.9	52.7	11.1	7.3	19.8	9.2	9.8	85.0
Means	882	53.0%	9.0%	61.8%	5.0%	5.4%	6.9%	6.0%	9.4yr.	87.0%

parity between the percent of minority students suspended and the percent of minorities in the base student population is highest in Region IV as well as the percent of Title I students suspended. When looking at the administrator characteristics of Region IV, it was found that those schools have administrators with the least number of years of administrative experience. However, those same administrators have the greatest percentage who have had at least one course in school law.

Although five of the eight institutional characteristics of Region IV stand out in comparison with the other regions, the differences are not as distinctive as when the administrative characteristics are considered. The average number of years of experience of student discipline administrators in Region IV is more than five years less than the average for all regions and two years less than the next lowest average. The percent of administrators in Region IV that have had at least one course in school law is more than seven percentage points higher than the next highest regional average.

Given these observations, it may be likely that the statistical differences found among the regions are due to student discipline administrator characteristics. More specifically, whether or not the administrator had a course in school law seems to increase the administrators' ability to recognize the elements of fair play in considering students

for suspension. In addition, whether or not the administrator was in the first five years of his/her career seemed to make a difference. Higher substantive due process scores were achieved by those with less experience. Perhaps those with less experience are being more cautious than those their senior. The cautiousness paid off in younger administrators being able to recognize higher levels of substantive due process. Review of the written codes of student behavior of the schools among each region was not helpful in adding insight to an interpretation of the significant statistical findings. There is wide variation in the format of the written rules. Once more, content varies widely. All the behavior codes share, however, an attempt to get at specificity. The shared direction is not unusual since all school districts are directed by the Illinois State Board of Education to provide students with some form of specific written rules of behavior.

For hypothesis two, it has been shown that there is a significant relationship between the level of recognition of substantive due process and the geographic location of the school. However, it is not likely that the relationship is effected by the actual "place" of the school. Its ruralness or urbanness does not seem to be a factor. Rather, it is the background of the administrator of the schools within a geographic region that appears to account for variations in levels of due process recognition. Formal course work in

school law and being in the early part of one's administration career are positive influences to recognizing substantive due process.

Hypothesis Three

There is no significant relationship between the number of students being suspended and the level of recognition of substantive due process in student suspensions.

The data associated with hypothesis three consists of composite scores for recognizing substantive due process (dependent variable) and the percentage of students suspended from the student body for one or more days during the 1980-81 school year (independent variable). Summary statistics on the independent variable are provided in Table Thirteen.

TABLE THIRTEEN

Variable	Mean	Standard Deviation	N	Mean
Percent of Students Suspended One or More Days (TSUS)	9.06%	10.49	108	55.00

Eight schools among the 116 available for the study, did not respond to the question on the survey instrument focusing on percent of students suspended. Since these respondents did answer all other questions, their questionnaires were retained as part of the 116 for analysis.

Hypothesis three was treated statistically by the use of regression analysis. Since regression was used, it was necessary to assume a linear relationship between the percent of suspended students and the substantive due process score. Specification of the linear equation would be:

$$\hat{Y} = a + bX$$

\hat{Y} = the predicted values of the dependent variable, a = intercept or constant and b = slope. X = values of the independent variable (TSUS).

After the specification of the regression equation, the analysis of the hypothesis can begin. Analysis starts with an inspection of the scatterplot. An inspection of the scatterplot of due process scores versus enrollment does not suggest a linear relationship. However, there appears to be no alternative that is nonlinear. The adequacy of the explanatory variable TSUS is examined in Table Fourteen where hypothesis three is formally tested.

TABLE FOURTEEN

Variable	Coefficient	SE	t	PR>t
Percent of Students Suspended One Day or More	.27	.23	1.17	.24
CONSTANT	117.27	3.25	36.04	.0001
N = 108	$R^2 = .01$		$s = 25.52$	

As the standardized residuals are plotted against the independent variable, TSUS, they show a random distribution about 0 and all lie between ± 2 . There is no pattern to the distribution. The analysis of the residuals, then, satisfies one of the important assumptions made in regression analysis. However, the failure of the scatterplot to suggest a linear relationship casts doubt about the relationship between the variables in hypothesis three.

The statistical testing presented in Table Fourteen confirms a lack of significance between the variables of hypothesis three. The calculated value of t (1.17) is not significant at the .05 level. The probability that the slope equals zero is .24. In addition the coefficient of determination, R^2 , is so low that it is doubtful as to the usefulness of the independent variable (TSUS) in explaining the dependent variable (YSUM). $R^2 = .01$ means that TSUS only accounts for 1% of the variability. Therefore, null hypothesis three is accepted.

Since hypothesis three now becomes a retained null hypothesis, it must be interpreted that evidence for a conclusion concerning the variables in the hypothesis has not been observed. Accepting hypothesis three does not necessarily represent evidence that there is no significant relationship between the level of substantive due process recognition and the percent of students suspended. The interpretation of hypothesis three most properly revolves around the

reasons why the null hypothesis had to be accepted due to lack of statistical significance. A retained null hypothesis may occur because of:

1. internal validity problems
2. research design lacks power
3. null hypothesis is true

In association with regression analysis, there are several other possibilities which might have been reasons for having to accept the null:

4. inadequate sample size
5. Type II error
6. specification error
7. restricted variance in the independent variable

As was the case for hypothesis one, internal validity was not a major problem in hypothesis three. Although it is possible that some extraneous variable is responsible for contaminating the relationship, the possibility is remote compared to some of the other six reasons.

The research design was such that it did have the power to reject the null hypothesis. The respondents were very heterogeneous on factors of experience, formal training in school law and the size of the schools in which they worked. Considered to be among the most powerful, regression analysis was used to test hypothesis three. The sample size was much larger than would have typically been used for the nature of the study.

In considering the possibility of Type II error, attention can be turned to the arrived calculations for the probability of t . Table Fourteen showed that the value of t was not significant at the .05 level. The probability that t equals zero is .24 which is highly lacking in statistical significance. The time to be concerned about Type II error is when the statistical probability level comes close to .05 but nevertheless must be considered unacceptable. The value of t in hypothesis three is so far from being significant that Type II error deliberations are misplaced.

The scatterplot of due process scores (YSUM) versus the number of students suspended (TSUS) is to be checked when considering the misspecification of the regression equation. Neither linear nor nonlinear patterns of any sort can be detected in the scatterplot. If there were a significant relationship between YSUM and TSUS, a line or a curve or a parabola would be discernible. Since no pattern appears, some credence is lent to the possibility that due process and the number of suspended students may not be significantly related.

Another reason for not having found statistical significance in hypothesis three might be restricted variance in the independent variable (TSUS). When considering this reason, the range of percentages reported by the respondents must be analyzed. Percentages of students suspended as reported ranged from a low of 0% to a high of 55%. Of course

the statistical range was 55.00. Over 90% of the percentages reported had different values. The overall picture shows that there was very little variance restriction in the independent variable.

Lastly, the reason why statistical significance was not uncovered may be due to the fact that the null hypothesis is true. Among the six reasons explored in attempting to explain the results, the most promising is to suggest that the null hypothesis is true. If the number of students suspended is in fact not related to the level of recognition of substantive due process, it may be due to some interesting reasons.

Students' rights interest groups such as the Children's Defense Fund suggest that higher numbers of students being suspended indicates greater unfairness. The survey conducted by the CDF in 1974 concerning suspensions points to what they consider a suspension epidemic. Since 1974, observers have generally agreed that the suspension numbers are very high. However, there has been no clear reason for the statistics. If the CDF is correct in contending that school administrators use suspension unfairly, results of hypothesis three of this research should have produced statistical significance between the fairness measure of substantive due process and the percentage of students being suspended. Not only was significance lacking but even observed differences did not occur. Higher obtained levels of

fundamental fairness were not found to be associated with lower suspension figures. Therefore, the CDF suggestion that higher suspensions mean greater administrative arbitrariness was not supported by this research. The numbers of students being suspended has increased since the 1974 CDF survey. Almost twice the percentage of students were suspended from school in 1981 as compared to 1974. Yet greater administrative arbitrariness was not found.

Most observers would admit that many civil rights issues as applied to students have been addressed since 1974. It is possible that the increase in suspensions is heavily counteracted by greater awareness of students' rights on the part of administrators. Although more students are being suspended than in 1974, they are being suspended in a fair manner. Hypothesis three supports the notion that the higher numbers of students being currently suspended is not due to administrative arbitrariness.

Hypothesis Four

There is no significant relationship between the percent of racial minorities present in the school student population and the level of recognition of substantive due process in student suspensions.

The data associated with hypothesis four consists of the composite scores for recognizing substantive due process and the percent of racial minorities present in schools. A scatterplot of due process scores (dependent variable) ver-

sus the percent of racial minorities (independent variable) suggests a relationship that is essentially linear.

The following summary statistics provide some description.

TABLE FIFTEEN

Variable	Mean	Standard Deviation	N	Range
Percent of Racial Minorities Present in Student Body (TRACE)	4.85%	13.70	116	99.90

The goal of regression analysis is to aid in understanding the interrelationships among variables. Regression analysis can provide both explanation and prediction. That is the regression can help identify the variable that causes the dependent variable and can help locate the variables that will allow for accurate guesses about the dependent variable.

Since we have assumed a linear relationship between the due process scores and the percent of racial minorities present in the student body, a linear model is fitted to the data.

We are provided with the regression equation

$$\hat{Y} = a + bX$$

where, \hat{Y} = the values of the dependent variable which is the

level of recognition of substantive due process. a = intercept or constant and b = slope. X = value of the independent variable which for hypothesis four is the percent of racial minorities present in the student body.

For the remainder of the analysis, the independent variable will be referred as TRACE and dependent variable as the YSUM.

Table Sixteen gives estimated coefficients and their standard errors.

TABLE SIXTEEN

Variable	Coefficient	SE	t	PR>t
Percent of Racial Minorities Present in Student Body (RACE)	.39	.16	2.33	.02
CONSTANT	118.46	2.43	48.61	.0001
N = 116	$R^2 = .04$		$s = 24.72$	

Before proceeding with further analysis, the residual plots must be analyzed to ensure that there are no serious violations of the underlying assumptions associated with the model. When the standardized residuals are plotted against the independent variable TRACE, they appear to be randomly distributed about 0 and all lie between ± 2 . There is no discernable pattern to the distribution of residuals; that is, they do not change in a systematic way with the

independent variable. A systematic pattern of variation of the residuals would indicate either one or more inadequacies in the underlying assumptions or errors in the specification of the equation. These deficiencies would have to be corrected before proceeding with further analysis. Since the residual plots are acceptable, it can be concluded that the model specification is satisfactory, and proceed with the analysis.

Formal assessment of the explanatory ability of TRACE by utilizing the results of the statistical testing is presented in Table Sixteen. The calculated value of t (2.33) is significant and exceeds the .05 level. Therefore, null hypothesis four is rejected. It must be noted that the coefficient of determination (R^2) for this bivariate regression model is relatively small, $R^2 = .04$. Therefore, TRACE accounts for an estimated 4% of the variation in the YSUM. This fact combined with the high level of statistical significance found, reveals that TRACE does help explain YSUM, but contributes a small amount to that explanation. Because the extent to which YSUM has been found to have regressed on TRACE, the next step can be taken in forming a fitted prediction equation. Estimating this equation with least squares yields,

$$\hat{Y} = 118.46 + .39X$$

or

$$YSUM = 118.46 + .39 \text{ TRACE}$$

The constant term (intercept) estimates the average value of Y (YSUM = substantive due process score) when X (TRACE = percent of racial minorities present in the student body) equals zero. Thus, the intercept estimate suggests that the expected level of recognition of substantive due process as reflected by due process composite scores for a school with no racial minorities would be 118.46. The coefficient of TRACE referred to as the slope, in the equation represents the increase in the score for each additional unit change in the percent of racial minorities present in the school population.

In terms of hypothesis four, the calculated prediction equation means that 118.46 (constant) is a fixed score that must be included along with other factors in order to calculate the total level of recognition of substantive due process. The slope, .39, says that a one percent increase in the percent of racial minorities present in an Illinois public high school's student body is associated with an average increase in the level of recognition of substantive due process score by .39.

By using the bivariate regression equation above virtually any substantive due process score can be predicted by simply knowing the percent of racial minorities present in the school. For instance, if we encounter an Illinois public high school with a minority enrollment of 10 percent, then the school's level of recognition of substantive due

process would be 122.36, as the following calculations show:

$$\begin{aligned}\hat{Y} &= 118.46 + .39X \\ &= 118.46 + .39(10) \\ &= 118.46 + 3.9 \\ \hat{Y} &= 122.36\end{aligned}$$

However, in every case where regression analysis is used for prediction, there is a certain amount of error. The difference between the observed and the estimated value of the dependent variable, $Y_i - \hat{Y}_i$, equals the prediction error for that case. The prediction error is called the standard error of estimate of Y (s_e); that is, the estimated standard deviation of the actual Y from the predicted Y. Hence, the standard error of estimate of Y provides a sort of average error in predicting Y. Utilizing the knowledge that the value given to the t distribution approximates 2 for the sample size in hypothesis four, we produce the following 98% confidence interval for YSUM:

$$(\hat{Y} \pm 2 s_e).$$

In the previous example it was predicted that a school with a 10 percent racial minority enrollment would produce a substantive due process recognition level of 122.36. How accurate is this prediction? For $x = 10\%$, we have this 98% confidence interval ($s_e = 24.72$):

$$122.36 \pm 2 (24.72) = (122.36 \pm 49.44)$$

Therefore, there is a .98 probability that a school with a 10% racial minority enrollment would have a level of recognition of substantive due process score between 72.92 and the highest possible score which is 171.25.

Table Seventeen compares low, medium and high due process scores in the student body. Where the percent of racial minorities is lowest (0-25%), the due process scores are medium to high. In the 26 to 50 percent minority schools, while there are few in the category, the scores remain high. There were no schools in the 26-50 category that were in the low scoring range. In the 51 to 75 percent minority school, all of the schools scored in the highest range. The same score phenomenon was true for schools in the highest racial minorities category. Therefore, the higher the percentage of racial minorities in the student body, the higher the level of substantive due process recognition. The statistical testing done supports this observed relationship.

These results were not expected given existing theory concerning racial discrimination in student discipline. The findings contradict the notion that higher levels of racial minorities present in the student population tends to support greater disparity in minority/non-minority suspension rates and therefore greater discrimination.

Interpretation of the findings might include several possibilities. First, the amount of publicity that has been given civil rights related issues in recent years may cause administrators to "overcompensate" when racial minorities are present in the student body. School administrators sim-

TABLE SEVENTEEN

SUBSTANTIVE DUE PROCESS SCORES BY PERCENT
OF RACIAL MINORITIES PRESENT IN STUDENT BODY

		Percent of Schools with Low Scores 50-90	Percent of Schools with Medium Range Scores 91-130	Percent of Schools with High Scores 131-172
Percent Racial Minorities Present	0-25	15	52	43
	26-50	0	1	1
	51-75	0	0	3
	76-100	0	0	1

ply may be more careful in their suspensions knowing that a heightened civil rights awareness may rear up and call his/her discretion into question. Second, schools that have significant numbers of minority students are likely to also have a disciplinarian who has a racial minority background. It may be that administrators who can identify with racial minorities is more likely to treat those students with greater fairness in suspension deliberations.

Finally, the other side of the coin needs to be addressed. How is it that those schools with low percentages of racial minorities also have low due process recognition scores? Possibly the absence of racial minorities in the student body operates to depress awareness. Schools that have a small percentage of racial minorities under 26% may be desegregated but not truly integrated. There may not be sufficient numbers of minorities present in order to create a substantive due process awareness condition as in schools with 26% and over percentage of racial minorities in the student body.

Hypothesis Five

There is no significant relationship between the percent of racial minorities being suspended and the level of recognition of substantive due process in student suspensions.

The data for hypothesis five compares the level of recognition of substantive due process with the percent of racial minorities suspended in sampled schools during 1980-

81. The scatterplot of the due process scores (dependent variable = YSUM) versus the percent of racial minorities suspended (independent variable = RACES) suggests a relationship that is basically linear. Preliminary description can be provided by the following summary statistics.

TABLE EIGHTEEN

Variable	Mean	Standard Deviation	N	Range
Percent of Racial Minorities Suspended (RACES)	6.05	16.13	116	99.90

Assuming a linear relationship between the due process scores and the percent of racial minorities suspended, a linear model is fitted to the data. The following bivariate regression equation would apply:

$$\hat{Y} = a + bX$$

\hat{Y} = the predicted values of the dependent variable (YSUM), a = the intercept and b = the slope. The term X represents values of the independent variable (RACES).

Table Nineteen gives the estimated coefficients standard errors, t values and the probability of t value being zero.

TABLE NINETEEN

Variable	Coefficient	SE	t	PR>t
Percent of Racial Minorities Being Suspended	.37	.14	2.67	.008
CONSTANT	118.06	2.43	48.47	.0001
N = 116	$R^2 = .05$		s = 24.55	

At this point, the residual plots are analyzed to ensure that there are no gross violations of the underlying assumptions associated with the model. The standardized plot of the residuals against the independent variable (RACES) shows a random distribution. All plotted points essentially lie between ± 2 . Patterns such as curves, circles or parabolas are not discernible. Therefore, there is reason to assume that no specification error exists in the equation.

Since the analysis of the residuals is positive, recognition of the calculated statistics in Table Nineteen takes on significance. The calculated value of t (2.67) is significant and far exceeds the .05 level. Therefore, null hypothesis five is rejected. The statistical test of significance shows that the percent of racial minorities suspended does help explain the level of recognition of substantive due process. However, the coefficient of determination, R^2 , is relatively small (.05). The small R^2 means

that only part of the variability (5% worth) can be reasonably accounted for.

Because a high level of statistical significance was found, forming a fitted prediction equation is appropriate. Estimating this equation with the least squares yields,

$$\hat{Y} = 118.06 + .37X$$

$$YSUM = 118.06 + .37 RACES$$

The constant term (intercept) estimates the average value of Y (YSUM = substantive due process score) when X (RACES = percent of racial minorities suspended) equals zero. Thus, the intercept estimate suggests that the expected level of recognition of substantive due process for a school where no racial minorities were suspended would be 118.06. The coefficient of RACES, referred to as the slope, in the equation represents the increase in the score for each additional unit charge in the percent of racial minorities being suspended.

For hypothesis five, the calculated prediction equation means that 118.06 (constant) is a fixed score that would be included along with other factors in order to calculate the total level of recognition of substantive due process. The slope, .37, says that a one percent increase in the percent of racial minorities suspended is associated with an average increase in the level of recognition of substantive due process score by .37.

By using the bivariate regression prediction equation above, virtually any substantive due process score can be predicted by knowing the percent of racial minorities present in the school. For instance, a school is encountered with a racial minority suspended figure of 10%, then the school's level of recognition of substantive due process would be 121.76, as the following calculations show:

$$\begin{aligned}\hat{Y} &= 118.06 + .37x \\ &= 118.06 + .37(10) \\ &= 118.06 + 3.7 \\ \hat{Y} &= 121.76\end{aligned}$$

However, in every case where regression analysis is used to predict, there is a certain amount of error. The difference between the observed and the estimated value of the dependent variable $Y_i - \hat{Y}_i$, equals the prediction error for that case. The prediction error is called the standard error of estimate of Y (s_e); that is, the estimated standard deviation of the actual Y from the predicted Y. Since the value given by the t distribution approximates 2 for the hypothesis five sample size, the following 99.99% confidence interval can be produced for YSUM:

$$(\hat{Y} \pm 2 s_e).$$

In the previous example it was predicted that a school with a 10 percent racial minority suspension rate would produce a substantive due process recognition level of 121.76. How accurate is this prediction? For $X = 10\%$, we have this 99.99% confidence interval ($s_e = 24.55$):

$$121.76 \pm 2 (24.55) = (121.76 \pm 49.10)$$

Therefore, there is a .9999 probability that a school with a 10% racial minority suspension rate would have a level of recognition of substantive due process score between 72.66 and the highest score which is 171.25.

Table Twenty compares low medium and high due process scores to four categories of percentages of those students suspended that were racial minorities. Where the percent of racial minorities suspended is lowest, the due process scores are medium to high. In the 26 to 50 percent suspended category, no schools were in the lowest range. In the 51 to 75 and 76 to 100 percent suspended category all schools scored in the highest due process recognition range. Therefore, the higher the percentage of racial minorities suspended, the higher the level of substantive due process recognition. The statistical testing confirms the observed relationship.

These results were not expected. The preponderance of previous research suggests that the greater the proportion of racial minorities suspended, the greater the indication of discrimination. The findings point to a reverse effect that is in operation.

As was the case with hypothesis four, perhaps higher percentages of racial minorities create an atmosphere of awareness that places the administrator "on guard." The net result is that a higher level of due process recognition is achieved because of racial minorities being involved in the

TABLE TWENTY

SUBSTANTIVE DUE PROCESS SCORES BY PERCENT OF
RACIAL MINORITIES SUSPENDED

		Percent of Schools with Low Scores 50-90	Percent of Schools with Medium Range Scores 91-130	Percent of Schools with High Scores 131-172
Percent Racial Minorities Suspended	0-25	15	50	40
	26-50	0	3	4
	51-75	0	0	3
	76-100	0	0	1

suspension cases. Where the Children's Defense Fund and even the Office of Civil Rights attribute higher racial minorities being suspended as a case for discrimination, the results at hand do not support that notion. While the numbers of racial minorities being suspended remain high, more racial minorities are being suspended by administrators that recognize the elements of fair play. If discrimination does exist as part of the suspension process, it is more likely due to teachers' racial discrimination or institutional racism. In most cases, it is the teacher who refers a student to the disciplinarian for possible suspension. Regardless of the administrators' sensitivity, teachers might be disposed to referring students in a discriminatory manner. Finally, institutional racism, that is the types of rules which are made suspensionable offenses or more generally the kinds of behavior that is expected of students may be culturally inappropriate for racial minorities in school. Consequently, it is the student who is a racial minority who is more likely to be identified as a rule breaker than white students. Therefore, beyond anyone's individual racism (teacher or administrator) it may be the "system" which is responsible for the continuing high statistical disparities between white and non white student suspensions. Nevertheless, more suspensions are being conducted by a fair minded administrator than may have been the case in previous years.

The written rules for student behavior for those schools with the highest due process recognition and the highest percentages of racial minorities suspended tended to be more simply constructed than those of other schools. The rules tended to be condensed onto one or two pages with the suspensionable offenses restricted to three or four items. In relation to the statistical findings, the written rules analysis would suggest that simplicity in rule selection may produce a discipline structure which allows for more fair mindedness. Possibly the administrator that has fewer and simpler rules to apply can afford to concentrate on fair play rather than on the intricacies of procedural correctness in rules application.

Hypothesis Six

There is no significant relationship between the percent of males present in the school population and the level of recognition of substantive due process in student suspensions.

For hypothesis six, the data consists of the composite scores for recognizing substantive due process which is expressed in whole numbers carried to the tenth place. The numbers ranged from 55.50 to 171.25. The due process composite scores are the dependent variable. The independent variable is represented by the percent of male students present in the student population of each high school. The summary statistics for the independent variable are provided in Table Twenty-one.

TABLE TWENTY-ONE

Variable	Mean	Standard Deviation	N	Range
Percent of Males in the Student Population (TSEX)	50.73	3.96	114	28.00

Two schools among the 116 available for the study, did not respond to the question concerning percent of males in the student population. Since these respondents did answer all other questions, their questionnaire was retained as part of the 116 for analysis. Since regression analysis was used as the statistical treatment for hypothesis six, a linear relationship was assumed. Linearity between the due process scores and the percent of male students was specified by the equation:

$$\hat{Y} = a + bX$$

where \hat{Y} = the predicted values of the dependent variable composite due process score (level of recognition of substantive due process), a = intercept or constant and b = slope, X = values of the independent variable (TSEX) the percent of males in the school population.

After the specification of the bivariate regression education, the analysis of the hypothesis can begin. The analysis starts with an inspection of the scatterplot. An inspection of the scatterplot of due process scores versus percent of student males does not suggest a linear relation-

ship. However, there appears to be no alternate that is nonlinear. The adequacy of the explanatory variable TSEX is examined in Table Twenty-two where hypothesis six is formally tested.

TABLE TWENTY-TWO

Variable	Coefficient	SE	t	PR>t
Percent of Males in the Student Population	- .23	.59	-.39	.69
CONSTANT	131.82	30.44	4.33	.0001
N = 114	$R^2 = .001$		$s = 25.21$	

When the standardized residuals are plotted against the independent variable, TSEX, they appear to be randomly distributed about 0 and all lie between ± 2 . There is no pattern to the distribution; that is they do not change in a systematic way with the independent variable. The analysis of the residuals has proved positive and therefore a very important underlying assumption associated with regression analysis is satisfied. However, the failure of the scatterplot to suggest a linear relationship points to some suspicion concerning the relationship in hypothesis six. Statistical testing confirms a lack of significance. As can be seen from Table Twenty-two the calculated value of t (-.23) is not significant. The probability that the slope estimate equals zero is .69. In addition, the coefficient of deter-

mination, R^2 , is so low that it places doubt as to the usefulness of the independent variable (TSEX) in explaining the dependent variable. $R^2 = .001$, which means that TSEX only accounts for one tenth of 1% of the variability in the level of recognition of substantive due process. Therefore, null hypothesis six is accepted.

Retaining the null hypothesis is interpreted to mean that evidence for a conclusion has not been observed. Accepting hypothesis six does not represent evidence that there is no significant relationship between the level of substantive due process recognition and the percent of males in the student body. It can only be assumed that no relationship between variables exists when the population is small enough so as a complete census can be done.

Interpretation of hypothesis six must involve an exploration into the variety of reasons why the retained null hypothesis occurred. Some of the most common reasons why a retained null hypothesis occurs are:

1. internal validity problems
2. research design lacks power
3. null hypothesis is true

Because the chosen analytical technique was regression analysis, there are four other reasons for not having found statistical significance. These reasons are:

4. inadequate sample size
5. Type II error

6. specification error
7. restricted variance in the independent variable

Internal validity was not a problem in hypothesis six although it is always possible that some unknown, unaccounted for, extraneous variable contaminated the relationship. Other reasons among the seven listed are better possibilities than internal validity.

The research design had the power to reject the null hypothesis and the respondents were heterogeneous on the individual and institutional characteristics with respect to the dependent variable. Regression analysis was used to test hypothesis six. The statistics associated with regression analysis are considered to be among the most powerful. The sample size was more than adequate.

The possibility of Type II error is remote when considering the calculations for the probability of t . Table Twenty-two shows that the value of t was not significant at the .05 level. The probability that t equals zero is .69 which is most highly lacking in statistical significance. If the possibility of t had been close to the .05 level, Type II error could have been considered. As it was, the t value is so far from being close to .05 that any thoughts of Type II error could have been considered. As it was, the t value is so far from being close to .05 that any thoughts of Type II error are unnecessary.

The scatterplot of substantive due process scores versus the number of male students is checked when considering the misspecification of the regression equation. Neither linear nor nonlinear patterns of any sort can be detected in the scatterplot between the variables, a straight line, curve or parabola would be seen. Since no pattern appears, the possibility becomes more believable that due process and the percent of male students present in the school population may not be significantly related.

The possibility of restricted variance in the independent variable should also be considered. In doing so the range of percentage for males in the student body reported by the respondents must be analyzed. Percentages of males present in the student body ranged from 40.00% to 68.00% with a statistical range of 28.00 as shown in Table Twenty-one. The results point to restricted variance being a plausible reason for not having found statistical significance. Restricted variance should be anticipated given the nature of the question as presented in the questionnaire. The percent of males in any segment of societies' institutions tends to gravitate toward the percent of males in the population at large. With rare exceptions, U.S. censi have reported males to approximate 50% of the population. It is no wonder that this study produced a mean percent males figure of 50.73%. These considerations explain why the range of percentages is so restricted. Reconsidering, the ques-

tion in the survey instrument concerning the percent of males might have been bettered by having asked for the exact number of male students as opposed to the percent of males. The number of male students would have produced data that was much more continuous and hence solve the problem of restricted variance for this particular independent variable.

Finally, the reason why statistical significance was not uncovered may be due to the fact that the null hypothesis is true. If the percent of males within the student body is not significantly related to the level of recognition of substantive due process, it may be due to a number of possibilities. The male/female ratio in a school is a basic institutional characteristic. If it is found that the male/female student ratio is not significantly related to the fairness measure, it may be due to the possibility that administrator characteristics alone are the determinates of substantive due process recognition.

Hypothesis Seven

There is no significant relationship between the percent of males being suspended and the level of recognition of substantive due process in student suspensions.

The data associated with hypothesis seven consists of composite scores from section two of the questionnaire. These scores represent the level of recognition of substantive due process and is the dependent variable. The independent variable is represented by the percentages of males

suspended one or more days during the 1980-81 school year. The summary statistics for the independent variable are provided in Table Twenty-three.

TABLE TWENTY-THREE

Variable	Mean	Standard Deviation	N	Range
Percent of Males Suspended One or More Days (SEXS)	64.17%	28.28	107	99.90

Nine schools among the 116 respondents did not answer the question concerning the percent of males suspended one or more days. Their questionnaires were saved because they did answer all other questions on the instrument. A linear relationship was assumed between the variables in hypothesis seven. The relationship is specified by the equation:

$$\hat{Y} = a + bX$$

\hat{Y} = the predicted values of the dependent variable, due process scores, a = intercept and b = slope, X = values of the independent variable, percent of males suspended.

Once the prediction equation is specified, the regression analysis of the hypothesis begins. The analysis commences with an inspection of the scatterplot. The scatterplot of due process scores versus percent of males suspended does not suggest a linear relationship. In addition, no nonlinear alternate is discernible. The adequacy of the

independent variable is examined in Table Twenty-four where hypothesis seven is formally tested.

TABLE TWENTY-FOUR

Variable	Coefficient	SE	t	PR>t
Percent of Males Suspended	.06	.08	.77	.44
CONSTANT	115.14	6.15	18.72	.0001
N = 107	$R^2 = .005$		s = 25.55	

Before interpreting the statistical tests, the standardized residuals plot of the independent variable should be checked. Inspection of the residuals shows that they are randomly distributed about 0 and all lie between ± 2 . There is no pattern to the distribution. The analysis of the residuals has proved positive and therefore one of the underlying assumption of regression analysis is satisfied. However, the failure of the scatterplot to suggest a straight line relationship points to some suspicion concerning the relationship in hypothesis seven. Statistical testing confirms a lack of significance. Table Twenty-four shows the calculations for the value of t (.77). This is not statistically significant. The probability that the value of t equals zero is .44. The coefficient of determination, $R^2 = .005$, it means that the independent variable only accounts for one half of 1% of the variability in the

composite due process scores. Therefore, null hypothesis seven is accepted.

Even though the null hypothesis is retained, it cannot be interpreted as evidence that there is no significant relationship between the variables. Retaining the null means that evidence for a conclusion has not been observed. Interpretation of hypothesis six must surround an exploration into the variety of reasons why the retained null hypothesis occurred. Some of the common reasons for a retained null hypothesis due to lack of statistical significance are:

1. internal validity problems
2. research design lacks power
3. null hypothesis is true

Since regression analysis was used for hypothesis seven, there are additional reasons for not having found statistical significance:

4. inadequate sample size
5. Type II error
6. specification error
7. restricted variance in the independent variable

Hypothesis seven did not have internal validity problems of an extraordinary nature. The possibility of internal validity problems was addressed at the planning stage of the research. In order to avoid internal validity difficulties, all possible independent variables that might be re-

lated to the recognition of substantive due process (dependent variable) were considered. A study hypothesis for each possible independent variable was posited. Greater possibility that the reason for not having found statistical significance lies elsewhere than within internal validity.

Turning to other reasons, the adequacy of the research design in providing the power to reject the null hypothesis should be considered. Power is a function of the size of the sample, the heterogeneity of subjects with reference to the dependent variable and the nature of the statistic used to test the hypothesis. All of these factors were taken into account when planning the study.

The sample size was more than 65% larger than usually considered optimum in sampling techniques. Heterogeneity was high among student disciplinarian respondents. The number of years of experience among administrators ranged from one to twenty-seven years. The use of regression analysis with hypothesis seven represents the most powerful method available. It is not likely that lack of power had much to do with having to accept the null hypothesis.

Type II error is an extremely remote possibility when considering the calculations presented in Table Twenty-four. The value of t was not significant at the .05 level. The probability that t equals zero is .44 which is highly lacking in statistical significance. If the probability of t had been near the .05 level, then Type II error might have

been considered. However, with the value of t being as lacking in statistical significance as it is, Type II error most certainly can be ruled out.

When considering the possibility that the regression equation was misspecified, the scatterplot of X versus Y must be checked. No linear nor nonlinear patterns of any sort can be seen in the scatterplot. If a significant relationship did exist between the percent of males suspended and the due process scores, some distinguishable pattern would be evident. Since no pattern appears in this case, the proposition that the variables are not significantly related becomes more credible.

The possibility of restricted variance should also be considered when searching for reasons why statistical significance was not found. The percentages of males suspended one or more days ranged from 2.0% to 99.9% with a statistical range of 99.9. These figures do not at all suggest any restriction in variance. On the contrary, the data for percent of males suspended is highly continuous.

In the final analysis, statistical significance may not have been uncovered because the null hypothesis is true. There are a number of possibilities why the percent of males being suspended is not significantly related to the level of recognition of substantive due process. Clearly there is an observed difference in the male/female suspension rates. Once more, the rate at which male students are suspended in

Illinois public high schools is almost 14% percent higher than their percentage in the base population. Even though the disparity in suspension rates suggest sex discrimination, none seemed to be found. This result confirms an earlier study in another state which could not find a significant relationship between a student's sex and how often they were suspended.

It is likely that male students engage in the kinds of behaviors which are more typically punished by suspension i.e. fight. While the numbers of males suspended continues to exceed the female suspensions, these boys seem to be suspended in a fair manner by administrators who recognize the elements of fair play. Therefore, whether many boys or few boys are suspended, it makes little difference as to the level of recognition of substantive due process for those administrators involved.

Hypothesis Eight

There is no significant relationship between the percent of students that participated in Title I programs and the level of recognition of substantive due process in student suspension.

Data for hypothesis eight consists of the composite scores for recognizing substantive due process (dependent variable) and the percent of students that was eligible for Title I ESEA reading or mathematics programs (independent variable). The summary statistics for the independent vari-

able (percent Title I students) are presented in Table Twenty-five.

TABLE TWENTY-FIVE

Variable	Mean	Standard Deviation	N	Range
Percent of Students Eligible for Title I (TTITLE)	6.91	13.03	116	99.90

All schools surveyed did respond to the question concerning the percent of students in the student body eligible for Title I programs. As in the case of hypothesis seven, hypothesis eight utilized regression analysis. The first step is to assume the linear relationship between the variables. The relationship is specified by the equation:

$$\hat{Y} = a + bX$$

\hat{Y} = the predicted values of the dependent variable--the composite due process scores, a = intercept or constant, b = slope, X = values of the independent variable (TTITLE).

After the bivariate prediction equation is specified, formal analysis can begin. First, the scatterplot of due process scores versus percent of eligible Title I students must be inspected. The inspection does not show a linear relationship between the variables. Regardless, there is no clear nonlinear alternative to be seen. If a nonlinear alternative existed, a curve or parabola could be

detected. The adequacy of the explanatory variable TTITLE is now examined as hypothesis eight is tested statistically. The results appear in Table Twenty-six.

TABLE TWENTY-SIX

Variable	Coefficient	SE	t	PR>t
Percent of Students Eligible Title I	.26	.17	1.49	.13
CONSTANT	118.51	2.63	44.94	.0001
N = 116	$R^2 = .01$		s = 25.06	

The plot of the residuals of the independent variable, TTITLE, appears to be randomly distributed about 0 and all lie between ± 2 . There is no pattern to the distribution; that is they do not change in a systematic way with independent variable. Although analysis of the residuals is positive, the failure of the scatterplot to suggest a linear relationship points to much doubt concerning the level of significance of the relationship specified in hypothesis eight. Statistical testing confirms a lack of statistical significance at the .05 level. Table Twenty-six shows the calculated value of t at 1.40 which falls short of the required level of significance needed. The probability that the slope or value of t equals zero is .13. Once more, the $R^2 = .01$ which means that the independent variable only

helps explain 1% of the variability in the due process scores. Therefore, null hypothesis eight is accepted.

Some of the reasons why a retained null hypothesis occurs may apply in the case of hypothesis eight. There are seven reasons why statistical significance may not have been found:

1. internal validity problems
2. research design lacks power
3. null hypothesis is true
4. inadequate sample size
5. Type II error
6. specification error
7. restricted variance in the independent variable

Internal validity was not a problem in hypothesis eight. Although it is possible that some extraneous variable is responsible for contaminating the relationship, the possibility is slim compared to the other six reasons.

The study design was such that it did have the power to reject hypothesis eight. The study participants were very heterogeneous on the factors of experience, size of schools in which they served and formal course work in school law. Considered to be among the most powerful statistics, regression analysis was used to test hypothesis eight. Once more the sample size was much larger than would be typically used for a study of this nature.

The possibility of Type II error does deserve some attention. Most often Type II error becomes a concern when the level of significance has been set at the .01 level and statistical testing shows significance near the .05 level. If previous research and theory concerning the null hypothesis is strong, perhaps the research should have set the significance test at the less demanding .05 level.

In the case at hand, statistical testing for hypothesis eight shows significance at a .13 level. The obtained level of significance is surprising since 42% of the respondents placed the value of X (percent of Title I students) at 0%. Among the twelve hypotheses of this study, the values of X for hypothesis eight were highly restricted. In light of the high restriction, the obtained statistical significance might suggest further research focusing on hypothesis eight. While there is some hint that under other circumstances, testing could have produced an acceptable level of significance (.05), the weight of the evidence at hand cannot support Type II error having been committed.

In considering the possibility of misspecification of the regression equation, the scatterplot of the due process scores versus the percent of Title I students must be checked. Neither linear nor nonlinear patterns of any sort can be detected in the scatterplot. If there were a significant relationship between due process scores and percent of Title I students, a line or a curve or a parabola

would be recognizable. Since no pattern appears, some certitude can be lent to the possibility that due process and the percent of Title I students in the student body are not significantly related.

The likelihood of restricted variance in the independent variable--percent of Title I students can be seriously considered. While the statistical range for X was good (99.90) with values ranging from 0% to 99.90%, the variance restriction was high due to the large number of 0% responses. Among the 116 responses, 49 answered 0% when asked what percent of the students in their building were eligible for Title I. With 42% of the responses being 0%, restricted variance becomes a most convincing reason for not having found sufficient statistical significance. Given the nature of the information sought, it should have been anticipated that variance was going to be restricted. The percent of Title I eligibles is essentially a matter of socio-economics. Schools that have Title I programs are not evenly distributed throughout the State. With only few exceptions, Title I programs typically are clustered in the urbanized areas of the State. As evidenced by the results of this research, many schools throughout the State have no Title I programs. The situation should have been improved if the question concerning Title I students were directed to those areas in the State whose Title I programs are known to

exist. The question was too locally specialized to have been used with success in a statewide survey.

Ultimately, the reason why statistical significance was not uncovered may have been due to the fact that the null hypothesis is true. The observed relationship between due process and percent of Title I students present does not suggest any pattern. Therefore, the statistical testing supports what can be observed from cross-tabulation. The results do not confirm earlier notions about the relationship of class discrimination in student suspensions. It has been thought that the proportion of students from lower socio-economic backgrounds being suspended at a higher rate than middle class students suggested class discrimination. If this were true, the results of hypothesis eight would have pointed to a significant relationship. This was not the case.

Hypothesis Nine

There is no significant relationship between the percent of Title I students that were suspended and the level of recognition of substantive due process in student suspensions.

The data associated with hypothesis nine consists of composite scores for measures of due process (dependent variable) and the percentage of Title I students suspended from school one or more days (independent variable). Summary statistics regarding the independent variable are provided in Table Twenty-seven.

TABLE TWENTY-SEVEN

Variable	Mean	Standard Deviation	N	Range
Percent of Title I Students Suspended One or More Days (STITLE)	6.06	14.88	116	66.00

Since regression analysis is being used, a linear relationship between the variables will be assumed. The specified equation for this relationship is:

$$\hat{Y} = a + bX$$

\hat{Y} = the predicted values of the dependent variables - due process scores, a = intercept or constant and b = slope, X = values of the independent variable (STITLE).

After the specification of the prediction equation, the analysis of the hypothesis begins. The first step in the analysis must include an inspection of the scatterplot of the due process scores versus percent of suspended Title I students. The scatterplot does not suggest a linear relationship. However, there appears to be no nonlinear alternative.

Formal statistical testing of hypothesis nine is presented in Table Twenty-eight.

TABLE TWENTY-EIGHT

Variable	Coefficient	SE	t	PR>t
Percent of Title I Students Suspended One or More Days (STITLE)	-.04	.15	-.27	.78
CONSTANT	120.62	2.53	47.53	.0001
N = 116	$R^2 = .0006$		s = 25.30	

As the residuals are plotted against the independent variable STITLE, they appear to be randomly distributed about 0 and all lie between ± 2 . There is no pattern to the distribution. Therefore, the analysis of the residuals can be said to be positive. Nevertheless, the failure of the scatterplot to show a linear or a nonlinear relationship points to some doubt concerning the significance of the relationship in hypothesis nine.

The results of the statistical testing as shown in Table Twenty-eight confirms a lack of statistical significance between the variables. The calculated value of t (-.27) is far below 2.00. The probability that the slope estimate -.27 equals zero is .78. Once more the coefficient of determination, R^2 , is so low that it accounts for only a trace of the variabilities in the due process scores. $R^2 = .0006$ which means that STITLE only accounts for six-one hundredths of one percent. Therefore, null hypothesis nine is accepted.

Interpretation of hypothesis nine must involve an examination into various of reasons why the retained null hypothesis occurred. The most common reasons why a null hypothesis is accepted are:

1. internal validity problems
2. research design lacks power
3. null hypothesis is true

Since regression techniques were used as the mode of analysis, there may be four other reasons why statistical significance was not uncovered. These reasons are:

4. inadequate sample size
5. Type II error
6. specification error
7. restricted variance in the independent variable

Internal validity was not a problem in hypothesis nine. The research design had the power to reject the null hypothesis and the respondents were heterogeneous on the individual and institutional characteristics with respect to the dependent variable. Regression analysis was used to test hypothesis nine. The sample size was more than adequate.

The possibility of Type II error is remote when considering the calculations for the probability of t . Table Twenty-eight shows that the value of t was not significant at the .05 level. The probability that t equals zero is .78 which is highly lacking in statistical significance. Since

PR>t is so far from the .05 level of significance, Type II error is not a consideration.

The scatterplot of the due process scores versus the percent of Title I students suspended is checked when deliberating the misspecification of the regression equation. Neither linear nor nonlinear patterns of any sort can be detected from the scatterplot. If there existed a significant relationship between the variables, a straight line, curve or parabola would be seen. Since no pattern appears, the possibility becomes more proximate that due process and the percent of Title I students suspended may not be significantly related.

Although the reasons for not having found statistical significance covered so far have not proved plausible, the possibility of restricted variance in the independent variable does merit some consideration. The statistical range was 66.0 with values from 0% to 66.0%. While this range is acceptable, the number of values represented by 0% is not acceptable. Responses of 0% represented 81 (70%) of all answers given. With the high proportion of zeros among the range of values, statistical testing accuracy is difficult to maintain.

As was the case with hypothesis eight, the question regarding percent Title I students suspended, should have been reserved for a more stratified sample where sufficient numbers of Title I eligibles exist.

Finally, the reason why statistical significance failed to be uncovered might be due to the fact that the null hypothesis is true. If the null hypothesis is true then a number of possibilities may be responsible for the lack of significant relationship. If hypothesis nine is true, it would contradict earlier notions held by students' rights groups that there is a relationship between social class of students and their propensity in being discriminated in suspensions.

While the rate of suspension for students of lower socio-economic backgrounds may be higher than for middle class students, it cannot be said that low SES students are being treated less fairly than others. Administrators seem to be equally considerate of lower SES students as middle class students for suspension purposes.

Hypothesis Ten

There is no significant relationship between the level of formalized training in school law of high school student disciplinarians and the level of recognition of substantive due process in student suspensions.

The data for hypothesis ten compares the level of recognition of substantive due process scores between those administrators that had a course in School Law and those that did not. The dependent variable is represented by the due process scores (YSUM). The independent variable is represented by 1 or 0 which denotes whether the respondent had a course in school law. 1 = yes, 0 = no.

The descriptive statistics are presented in Table Twenty-nine.

TABLE TWENTY-NINE

Variable	Mean	Standard Deviation	N	Range
YSUM for those that had a course in school law	124.85	24.70	101	106.00
YSUM for those that did not have a course in school law	119.69	28.81	15	105.75

The means differ from each other and differ from 120.36 which is the mean for all 116 schools in the sample. In order to determine whether the difference between these means are great enough to be statistically significant, Analysis of Variance (ANOVA) techniques were employed. Table Thirty summarizes the results of the calculations.

TABLE THIRTY

Source of Variance	ss	df	MS	F	PR>F
Between groups	346.99	1	346.99	.54	.46
Within groups	72673.05	114	637.48		
Total	63020.04	115			

For hypothesis ten, the F-ratio is .54 which is not statistically significant at the .05 level. The probability that the value of F is not equal to zero is only .46. Therefore, null hypothesis ten is accepted.

Since hypothesis ten now becomes a retained null hypothesis, it must be interpreted that evidence for a conclusion concerning the variables in the hypothesis has not been observed. Accepting hypothesis ten does not necessarily mean that there is no significant relationship between the level of substantive due process and whether or not the student disciplinarian had a course in school law. The proper interpretation of hypothesis ten centers on the reasons why the null hypothesis had to be accepted. Given the statistical technique used with hypothesis ten, the retained null hypothesis may have occurred because of:

1. The null hypothesis is false, but internal validity problems contaminated the investigation so badly that the actual relationship between variables could not be observed.
2. The null hypothesis is false but the research design lacked the power to reject it.
3. The null hypothesis is in fact true.

Which reason or reasons are responsible for having to accept hypothesis ten cannot be known with certainty. Rather, each of the three reasons mentioned should be considered in turn as a possibility.

For hypothesis ten, it is possible that internal validity problems contaminated the relationship but this is not as likely as other reasons. The only internal validity problem encountered with hypothesis ten is the same for all twelve hypothesis--other uncontrolled variables could influence the due process scores. Uncontrolled variables are a bigger problem when the study involves the testing of a single hypothesis. It is difficult to know the extent to which other independent variables might be affecting the observed relationship. However, in this study, a research hypothesis was developed for each possible independent variable that could reasonably be related to due process recognition. Unfortunately, it is still possible that some independent variable was overlooked or that some unknown extraneous variable is affecting the relationship.

The research design did not lack the power to reject the null hypothesis. Power is a function of the size of the sample, the heterogeneity of subjects with reference to the dependent variable and the nature of the statistic used to test the hypothesis. All of these factors were taken into account when planning the study.

The sample size was more than 65% larger than usually considered optimum in sampling techniques. Heterogeneity was high among student disciplinarian respondents. The number of years of administrative experience among respondents ranged from one to twenty-seven years. Some had

formal training in school law (84.7%), others had none. Schools in which administrators served ranged in size from 108 to 2711. Demographically, schools were located in urban, suburban, rural and semi-rural communities with 81 of the 102 Illinois counties being represented in the sample.

The instrument used was specifically developed for this study. The hypotheses that were formulated included variables whose relationship is not known in any previous research nor does any theoretical framework suggest a relationship with any certainty. These factors were considered as the basis for employing the most powerful appropriate statistic in testing the hypothesis.

The fact that the split between the yes responses and the no responses was 101 to 15 is somewhat suspicious. Statistically, it would have been better if the split were more evenly divided. Therefore, some likelihood remains that the reason statistical significance was not found is due to insufficient responses for the "no" category.

Finally, the reason why statistical significance was not uncovered may be due to the fact that null hypothesis is true. If the due process score of a high school is not significantly related to whether or not the school disciplinarian had a course in school law, some interesting reasons could be explored.

Administrative certification agencies and school administrator graduate programs would hope that formal

course work in school law had some impact as a practical application. The results, however, suggest that school law course work does little to improve administrators' awareness of fair play. Of course, the study did not measure administrators' familiarity with procedural guidelines in suspension. Most surveys conducted in order to establish school law "knowledge" suggest that administrators are familiar with procedural due process. This study attempted to measure administrators' ability to recognize substantive due process as revealed by the standards of fundamental fairness and fair warning.

It appears as though legal education of school administrators cannot help in making administrators more fair in the practice of student discipline as it is currently structured. This is not to say substantive due process as applied to student suspension cannot be taught. Admittedly the concepts of substantive due process are more difficult to understand. Once more, the history of substantive due process in student suspensions is not as well recognized as procedural due process. Until school law course work for administrators allows for a focus on the substantive due process aspects of student discipline, it cannot be certain whether fair play can be taught or whether it is a personality characteristic.

Hypothesis Eleven

There is no significant relationship between the number of years of administrative experience of high school student disciplinarians and the level of recognition of substantive due process in student suspensions.

The data for hypothesis eleven compares the composite due process scores from high schools with student disciplinarians at the lower, mid and higher levels of experience. The three groups of administrators were divided as follows: (1) those with 1 to 5 years of student discipline administrative experience, (2) those with 6 to 10 years, and (3) those with 11 or more years of experience. The level of experience of the student disciplinarians represents the independent variable (ADM). The dependent variable is represented by the due process scores (YSUM). The descriptive statistics for the independent variable is presented in Table Thirty-one.

TABLE THIRTY-ONE

Variable	Mean	Standard Deviation	N	Range
YSUM for Adm. with 1 to 5 yrs. Exp.	122.13	23.20	45	88.25
YSUM for Adm. with 6 to 10 yrs. Exp.	115.27	25.57	35	90.00
YSUM for Adm. with 11 or more yrs. Exp.	122.52	27.20	36	115.75

The means differ from each other and differ from 120.36 which is the mean for all 116 schools in the sample. In order to determine whether the differences among the three groups' means are great enough to be statistically significant, Analysis of Variance (ANOVA) techniques were employed. Table Thirty-two summarizes the calculations.

TABLE THIRTY-TWO

Source of Variance	SS	df	MS	F	PR>F
Between groups	1208.94	2	604.47	.95	.39
Within groups	71305.52	112	636.65		
Total	72514.46	114			

For hypothesis eleven, the F-ratio is .95 which is not statistically significant at the .05 level. The probability that the value of F is not equal to zero is only .39. Therefore, null hypothesis eleven is accepted.

The results from hypothesis eleven must not be interpreted as absolute evidence for assuming that there is no significant relationship among the variables. It can only be said that evidence for a conclusion concerning the variables has not been observed. The proper analysis should focus on the likelihood that one of the reasons generally accepted as possible causes for having to accept the null hypothesis. The retained null hypothesis may have occurred because:

1. The null hypothesis is false but internal validity problems cause the actual relationship between the variables to go undetected.
2. The null hypothesis is false but the design of the research lacked the power to reject it.
3. The null hypothesis is true.

The possibility that internal validity problems contaminated the relationships in hypothesis eleven is not as likely a cause of not having found statistical significance as other reasons. In addition the research design did not lack the power to reject the null hypothesis. Power is a function of the size of the sample, the heterogeneity of subjects with reference to the dependent variable and the nature of the statistic used to test the hypothesis.

The study sample size was larger than would normally be acceptable for the number within the complete census. Heterogeneity was high among the respondents. The Analysis of Variance approach is the most powerful statistic that could have been used given the nature of the data.

In the final analysis, the reason why statistical significance was not uncovered may be due to the fact that the null hypothesis is true. Indeed there are observed differences in the due process scores among the three groups of administrators. However, the statistical testing does not support the observed differences. The results suggest that experience is not related to administrators having an im-

proved awareness of what constitutes fair play. Those administrators that have an awareness of fundamental fairness acquired that talent by some means other than experience.

It well may be that the level of recognition of substantive due process among administrators is an inherent trait such as apathy or bravery. It is likely that those administrators who have a developed sense of fair play have it as an individual characteristic of personality which they may always have, regardless of experience. Those who do not have this sense of fair play may not ever have it.

Hypothesis Twelve

There is no significant relationship between the existence of written rules of behavior for students and the level of recognition of substantive due process in student suspensions.

The data for hypothesis twelve compares the due process scores between those schools where written rules of behavior existed and those where they did not exist. The dependent variable is represented by the due process scores (YSUM). The independent variable is represented by 1 or 0 which symbolizes whether a written code of student behavior exists for a particular school. 1 = Yes - a written code exists, 0 = No - a written code does not exist.

The descriptive statistics are presented in Table Thirty-two.

TABLE THIRTY-THREE

Variable	Mean	Standard Deviation	N	Range
YSUM for those with a written code	120.49	25.38	114	15.00
YSUM for those with no written code	112.75	10.60	2	115.75

The means differ from each other and differ from 120.36 which is the mean for all 116 schools in the sample. In order to determine whether the difference between these means are great enough to be statistically significant, Analysis of Variance (ANOVA) procedures were used. Table Thirty-four summarizes the results of the calculations.

TABLE THIRTY-FOUR

Source of Variance	SS	df	MS	F	PR>F
Between groups	117.92	1	117.92	.18	.66
Within groups	72902.12	114	639.49		
Total	73020.04	115			

For hypothesis twelve the F-ratio is .18 which is not statistically significant at the .05 level. The probability that the value of F is not equal to zero is only .66. The measures obtained from the groups do differ but the differences are not great enough than could be expected to

exist by chance alone. Therefore, null hypothesis twelve is accepted.

Interpreting the results from hypothesis twelve will center on three possible reasons why statistical significance was not uncovered. The three reasons are:

1. Internal validity problems contaminated the actual relationship between the variables.
2. The research design lacked the power to reject the null hypothesis.
3. The null hypothesis is in fact true.

In hypothesis twelve it is possible that internal validity problems contaminated the relationship but it is not as likely as other reasons. It is not possible to always know the extent to which other independent variables might affect the observed relationship. However, the present study had developed a hypothesis for each possible independent variable that might be related to the recognition of substantive due process. Regrettably it is always possible that some extraneous variable was overlooked.

The most probable reason for not having found statistical significance was unique to hypothesis twelve. It should be noted that only two "no" responses were obtained from the sample of 116. With nearly no variance in the independent variable, a proper statistical measurement cannot be taken. It cannot be shown whether a more evenly divided

yes/no response might have produced ANOVA measurements which could be better relied upon.

Lastly, a possible reason why statistical significance was not uncovered may be due to the fact that the null hypothesis is true. If the due process score is not significantly related to whether or not the school has a written code of student behavior, some interesting possibilities may be at the root of the lack of relationship. The results suggest that something more than the simple existence of a written behavior code is necessary to effect the presence of substantive due process within an Illinois public high school. The applications of the written rules by the school disciplinarian may be more important than the rules themselves.

Multiple Regression

With multiple regression, all of the independent variables in the study can be tested for significant relationship to the dependent variable--substantive due process recognition. This is useful in two ways. First, it almost inevitably offers a fuller explanation of the dependent variable, since few phenomena are products of a single cause. Second, the effect of a particular independent variable is made more certain for the possibility of distorting influences from the other independent variables is removed. While the statistical control of multiple regression is

weaker than experimental control, it still has great value. The careful introduction of additional variables into a regression equation permits greater confidence in the findings.

In the study it was found that three of twelve independent variables were significantly related to the level of substantive due process recognition of student discipline administrators. Specifically the geographic location of the school (Region IV), the percent of racial minorities present in the student body and the percent of racial minorities of those students suspended were all found to be significantly related to the due process score. Of course, the statistical significance was uncovered while testing each variable separately as part of a bivariate model. Will these independent variables still prove to be significant predictors of substantive due process when they are all treated in combination?

Table Thirty-five gives the description of the variables in the study.

Regression analysis encourages the use of variables, whose amounts can be measured with numeric precision, that is, interval variables. All of the variables in Table Thirty-five are interval variables except for X_{14} and X_{15} . These particular variables are noninterval. Nevertheless, these noninterval variables can be incorporated into a regression framework through the employment of dummy varia-

TABLE THIRTY-FIVE
DESCRIPTION OF VARIABLES

Variable	Computer Abrv.	Description
Y	YSUM	Substantive due process composite score
*X ₁	RG1	Due process scores for Region I
*X ₂	RG2	Due process scores for Region II
*X ₃	RG3	Due process scores for Region III
*X ₄	RG4	Due process scores for Region VI
X ₅	ENR	Total full time equivalent enrollment
X ₆	TSEX	Percent of male students enrolled
X ₇	TSUS	Percent of enrollment that was suspended
X ₈	SEXS	Percent of students suspended that was male
X ₉	TRACE	Percent of enrollment that is racial minority
X ₁₀	RACES	Percent of students suspended that was racial minority
X ₁₁	TTITLE	Percent of enrollment that was Title I
X ₁₂	STITLE	Percent of students suspended that was Title I
X ₁₃	ADM	Years administration experience
X ₁₄	SL	Formal training in school law
X ₁₅	RULE	Written rules for student behavior

*Only four variables need represent the five regions. In the multiple regression equation, region five is automatically accounted for by the inclusion of estimated values for the other regions.

bles. The variables X_{14} and X_{15} can be considered dichotomies. For X_{14} --Formal training in school law, the respondent was asked whether he/she had taken at least one course in school law. Their answers were either yes or no. For X_{15} --written rules for student behavior, their answers were either yes or no. Thus, the dummy variables X_{14} and X_{15} will act as dichotomies (yes, no).

Dichotomous independent variables do not cause the regression estimates to lose any of their desirable properties. Because they have two categories, they manage to trick least squares, entering the equation as an interval variable with just two values. Therefore, X_{14} was scored 1 if yes, 0 if not. X_{15} was scored in the same manner.

A multiple regression model is fitted to the data with the following equation:

$$\hat{Y} = a_0 + b_1 X_1 + b_2 X_2 + \dots + b_{15} X_{15}$$

As noted in Table Thirty-five, Region V is not specified in the multiple regression equation. Nevertheless, Region V is still accounted for in the equation. If one were to put zero for the values of Regions I, II, III, and IV, the only value present would represent Region V.

The results of fitting the least squares equation connecting Y and the 15 explanatory variables is given in Table Thirty-six along with the estimated coefficients and their standard errors.

Before proceeding with the analysis, the residual plots must be analyzed to determine if there are any serious violations of model assumptions, or some model misspecification. When the standardized residuals are plotted against the fitted values, they appear to be randomly distributed about 0 and all lie between ± 2 . There appears to be no systematic pattern of variation to the residuals. The standardized residuals which were plotted against the various independent variables for analyses of the study hypotheses are reviewed again. None of the residuals give any evidence of gross violation of model assumptions or misspecification of the model. We can now proceed with the analysis.

From Table Thirty-six, it is seen that none of the variables have regression coefficients that are significantly different from zero. The value of R^2 -- the coefficient of multiple determination is .16. The R^2 for a multiple regression equation indicates the proportion of variation in Y explained by all the independent variables. In this study, the R^2 value indicates that all of the independent variables together account for 16% of the variability in the level of recognition of substantive due process (YSUM composition scores).

The statistical results mean that all of the independent variables taken together have no explanatory or

TABLE THIRTY-SIX

Variable	Coefficient	SE	t	PR>t
RG1	-16.27	10.86	-1.50	0.13
RG2	-10.02	9.64	-1.04	0.30
RG3	-10.71	8.62	-1.24	0.21
RG4	6.69	9.59	0.70	0.48
ENR	0.002	0.005	0.56	0.57
TSEX	-0.39	0.64	-0.60	0.54
TSUS	-0.02	0.28	-0.08	0.93
SEXS	0.02	0.09	0.24	0.81
TRACE	-0.09	0.52	-0.19	0.85
RACES	0.48	0.38	1.26	0.20
TTITLE	0.26	0.37	0.72	0.47
STITLE	-0.09	0.20	-0.48	0.63
ADM	0.56	0.49	1.13	0.26
SL	-5.08	7.60	-0.67	0.50
RULE	11.99	29.08	0.41	0.68
Constant	127.66	45.89	2.78	0.996

prediction power for the recognition of substantive due process. However, explaining the YSUM in terms of 15 variables may not be the best model given the nature of substantive due process recognition. Whether the YSUM can be explained adequately in terms of fewer variables must be examined. An important goal in regression analysis is to arrive at adequate descriptions of observed phenomenon in terms of as few meaningful variables as possible. The economy in description has two advantages. First, it enables us to isolate the most important variables. Second, it provides a simpler description of the process studied, thereby making it easier to understand the process. Simplicity of description or the principle of parsimony as it is sometimes called is one of the important guiding principles in regression analysis.

The simplest multivariate model would include only two independent variables. Therefore, Table Thirty-seven presents the best two variable model.

TABLE THIRTY-SEVEN

Variable	Coefficient	SE	t	PR>t
RG4	.01	6.22	2.18	.03
RACES	.47	1.40	2.91	.004
Constant	115.79	2.61	44.29	.0001

$$R^2 = .09$$

The results show that the two variables RG4 -- the mean scores of schools located in Region IV in Illinois and RACES -- percent of students suspended that were racial minorities are significantly related to the YSUM or level of recognition of substantive due process. These two variables, then, are the best indicators of the level of due process recognition. Given that two variables have been found, we proceed to formulate the best fitted multiple regression prediction equation:

$$\hat{Y} = a_0 + b_1 X_1 + b_2 X_2$$

Estimating this equation with least squares yields,

$$\hat{Y} = 115.79 + .01 X_1 + .47 X_2$$

$$YSUM = 115.79 + .01 RG4 + .47 RACES$$

The constant term a_0 equals the average value of Y when each independent variable equals zero. The slope b_k is equivalent to the average change in Y associated with a unit change in X_k when the other independent variables are held constant. By this means of control, we are able to separate out the effect of X_k itself, free of any distorting influences from the other independent variables. Such a slope is called a partial slope, or partial regression coefficient.

For the research at hand, the partial slope b_2 estimates that a one percent increase in the rate of racial minorities among suspended students is associated with an average rise in the level of substantive due process recognition score by 4.75, even assuming the mean composite

scores of the schools in Region IV remain constant. According to b_1 , an increase in the mean scores of Illinois public high schools in Region IV would add to the due process composite score regardless of the percent of racial minorities suspended among students. That is, an extra point on the mean of the composite scores of Region IV schools will increase a given school's due process score 13.55 beyond the increase that comes from RACES.

By using the multiple regression equation, virtually any substantive due process score can be predicted by simply knowing the mean score of schools within Region IV and the percent of students suspended that are racial minorities. For the purpose of example let us predict the level of recognition of substantive due process for an Illinois public high school that has a percent of students suspended that are racial minorities figure of 5% and we know that the mean substantive due process composite scores for Region IV is 120. The resulting predicted substantive due process score for that high school will be 119.34, as the following calculations show:

$$\hat{Y} = 115.79 + .01 X_1 + .47 X_2$$

$$\hat{Y} = 115.79 + .01(120) + .47(5)$$

$$\hat{Y} = 115.79 + 1.2 + 2.35$$

$$\hat{Y} = 119.34$$

In every case where regression analysis is used for prediction, there is a certain amount of error. The differ-

ence between the observed and the estimated value of the dependent variable, $Y_i - \hat{Y}_i$, equals the prediction error for that case. The prediction error is called the standard error of estimate of Y (s_e); that is, the estimated standard deviation of the actual Y from the predicted Y. Hence, the standard error of estimate of Y provides a sort of average error in predicting Y. Utilizing the knowledge that the value given by the t distribution approximates 2 for the sample size, we produce the following 97% confidence interval for YSUM:

$$(\hat{Y} \pm 2 s_e).$$

In the previous example it was predicted that a school with a 5 percent of suspended students being racial minority and a Region IV mean due process score of 120 would result in a substantive due process recognition score of 119.34. How accurate is this prediction? For $X_1 = 120$ and $X_2 = 5$, we have the following 97% confidence interval ($s_e = 25.19$):

$$119.34 \pm 2 (25.19) = (119.34 \pm 50.38)$$

Therefore, there is a .97 probability that a school with a 5 percent of suspended students being racial minority figure and the mean score of Region IV schools on YSUM, 120 would result in a level of recognition of substantive due process score between 68.96 and 169.72.

A major drawback to the best two variable model RG4 and RACES is one of practical application. In order for a

school administrator to be able to use the equation to predict the level of substantive due process recognition in his/her school, he would have to know the mean scores for schools in Region IV. Plugging the RACES values into the equation is a fairly simple matter however, someone or some agency would have to provide information on RG4.

It is interesting that the YSUM for a region was selected by the computer as a significant independent variable in consort with a more typical independent variable. Perhaps we can look at the average school in Region IV as a kind of barometer which in part determines conditions for the rest of the state. When regression analysis was done as part of the statistical tests for each study hypothesis, the geographic regions (specifically Region IV) and RACES were found to be significantly related to the level of substantive due process recognition. Statistical significance was confirmed by the two variable best model multiple regression analysis. The case for RG4 and RACES being significant are made very much stronger by the confirming results of the multiple regression. When multiple regression was introduced the power of the statistic was able to "hold constant" the other contaminating independent variables so as to expose the true significant relationships.

Summary

In this chapter, the data was analyzed statistically by the use of bivariate regression, multivariate regression and analysis of variance techniques. Twelve hypotheses guided the study with each representing an attempt to determine whether one of a variety of institutional or administrator characteristics might explain the measured level of recognition of substantive due process.

Regression analysis was used in hypothesis one where it was found that the size of the school enrollment was not significantly related to the level of recognition of substantive due process. Hypothesis one was accepted. In hypothesis two the analysis of variance approach uncovered statistical significance among the scores of the five regions in Illinois and substantive due process recognition. Specific difference was located in Region IV as it stood out in a number of characteristics compared to the other regions. Hypothesis two was rejected.

The percent of students suspended at least once during 1980-81 school year was not found to be significantly related to substantive due process recognition. Failure of regression analysis to uncover statistical significance lead to the acceptance of hypothesis three. The fourth hypothesis was rejected as the data revealed that there was a significant relationship between the percent of racial minori-

ties present in the student body and the level of recognition of substantive due process.

Hypothesis five revealed a high level of statistical significance between substantive due process recognition and the percent of students suspended that were racial minorities. The higher the number of racial minorities suspended the higher the level of recognition of substantive due process. Hypothesis five was rejected. The null hypothesis in six was accepted as bivariate regression failed to uncover statistical significance between the percent of males in the student population and substantive due process recognition. Likewise, in hypothesis seven, no statistical significance was found when attempting to determine whether the percent of male students suspended was significantly related to due process recognition. Seven was accepted.

The importance of poverty classification in student suspensions was explored in hypothesis eight and nine. In eight, the percent of Title I students in the student population and in nine, the percent of students suspended that was Title I were both determined to have no statistical significance to substantive due process recognition. Hypotheses eight and nine were accepted.

Administrator characteristics were examined in hypotheses ten and eleven for their possible relationship to due process recognition. Neither the level of formal training in school law nor the number of years of administrative

experience was found to have a statistically significant relationship to substantive due process recognition. Ten and eleven were accepted.

Finally, in hypothesis twelve, whether a school had written rules for student behavior was found to have no statistically significant relationship to the level of substantive due process recognition. Therefore, hypothesis twelve was accepted.

In sum, hypotheses two, four and five were rejected. Hypotheses one, three and six through twelve were accepted. Multiple regression analysis revealed that no statistical significance existed when all 15 independent variables were taken together as explanation for substantive due process recognition. However, when the best two variable model approach was used, statistical significance was uncovered. Both the mean scores of Region IV (RG4) and the percent of students suspended that were racial minorities (RACES) were found to be able to explain and predict the dependent variable.

CHAPTER V

SUMMARY, CONCLUSIONS AND RECOMMENDATIONS

Summary

This study had two major objectives. First, reveal the extent to which high school student discipline administrators can recognize substantive due process as a necessary element in student suspensions. Second, identify which institutional and/or school administrator characteristics influence the level of substantive due process being recognized and afforded students.

In 1975 the Supreme Court decided the case of Goss v. Lopez. Since that time, a remarkably large number of student discipline cases have been decided against school authorities not on their merits (substantive issues) but on the ground that procedural due process was inadequate. Hence, legal requirements in student suspensions have come to be understood by school administrators as the provision of procedural due process.

Although the Goss decision highlights the procedural aspects of Due Process for suspensions, the Due Process Clause encompasses both procedural and substantive elements. Constitutional due process is not so precise as to require-

ments as school administrators have been lead to believe. In effect it is a question of "fair play," and the due process concept encompasses different rules in accordance with different factual contexts and different types of proceedings.

The fact that due process includes the substantive elements of Fundamental Fairness and Fair Warning as well as the requirement of procedural regularity has not yet been fully realized by the educational community. Even the Goss Court recognized the more basic rights of students, "especially the right to be insulated from the actions of administrators unhampered by fundamental principles of fairness."

Regardless of how carefully an administrator follows procedural due process guidelines, the suspension could be successfully challenged if the decision of the administrator to suspend a student for a particular misbehavior is judged to be unreasonable by the court. Even if the decision to suspend is reasonable, the suspension could be challenged on the ground that the degree of punishment (number of days of suspension) is unreasonable for the particular student transgression.

How correct is the Supreme Court's view regarding the fair-mindedness of school administrators? Is it possible that administrators have become so procedure conscious regarding suspensions that the more basic requirements of fairness have become dangerously obscured?

In order to shed light on the questions raised, this study was conducted in the fall of 1981. As it is among those states with the greatest amount of student suspensions, high school disciplinarians from Illinois participated. Three hundred administrators from a total population of 755 were drawn at random to be surveyed.

Since no instrument existed that could serve the objectives of the study, a specially designed instrument was developed. The instrument consists of two sections. Section one gained background information on school and administrators. The 12 items in section one became the independent variables for the study. Section two posed eight student suspension hypotheticals to which student disciplinarians responded by indicating the extent to which they agreed with the decisions being reached in each of the hypotheticals. The scores from the responses to section two were used as a composite to measure the extent to which the Constitutional standards of Fair Warning and Fundamental Fairness were recognized. The composite scores from section two became the dependent variable for each school in the study.

An expert panel of legal scholars and practicing attorneys were used to aid in the development of the instrument. The panel provided for content validation and reliability in the instrument. In addition, the specific judgments of the panel as to the degree of substantive due

process issues involved in each hypothetical was used to develop weighting factors for each question in section two.

The weighting factor for each hypothetical represented the relative extent to which Fair Warning and Fundamental Fairness was present within the circumstances represented in the questions. The response of the participant indicated the extent to which he/she agreed with the decision reached in the situation presented on a scale of 1 to 5. The respondents' choice was multiplied by the weighting factor for that question. The scores for all questions were then tallied to produce the substantive due process composite for that school.

Multiple regression analysis was conducted to determine the extent to which any one or combination of institutional and/or administrative characteristics might be significantly related to the level of recognition of substantive due process. In addition, multiple regression analysis would provide the information that would indicate which variables if any are the best predictors for substantive due process.

Among the institutional characteristics looked at in relation to the due process levels for schools, a high level of significance was shown between due process recognition and racial minorities considerations. The higher the percentage of racial minorities present in the student body and the higher the percentage of racial minorities actually sus-

ended from school one or more days, the higher the level of recognition of substantive due process. In addition, composite scores among the five geographic regions of Illinois showed significant differences.

Since 1974 the Children's Defense Fund and other student rights groups have made the case that racial minorities are unjustly discriminated against in school suspensions. The results of this study suggest that if anything a case of "reverse discrimination" is operating. A survey by the National School Public Relations Association suggests that administrators overcompensate in terms of disciplining minority students. Prior research has shown that rural areas tended to have a much higher disproportion of minorities being suspended compared to whites. The suggestion has been that those figures point to greater levels of discrimination. The results of this study also seem to contradict notions concerning rural versus urban racial discrimination in suspension practices. The results show that the levels of recognition of due process are higher in the rural areas of Illinois as compared to the urban regions.

Variables that do not seem to be significantly related to due process recognition are: size of school enrollment, social class of students, or the frequency with which students are suspended. In addition, the student disciplinarian characteristics concerning the level of formal legal training showed no significant relationship to the

recognition of substantive due process. The number of years of student discipline administrator experience showed some promise as a variable related to the recognition of substantive due process. Although not found to be statistically significant at the level of confidence set for the study (.05), the value that was calculated was close enough (.07) to suggest further analysis under different conditions.

The best predictors among the twelve variables considered were statistically confirmed as follows: (1) percent of racial minorities present in the student body, (2) percent of students suspended that could be classified as racial minority, and (3) the geographic region in which the school is located.

Conclusions

The conclusions that the research findings indicate are as follows:

1. There is no significant relationship between the size of high school enrollments and the level of recognition of substantive due process in student suspensions.
2. There is a positive relationship between the geographic location of high schools and the level of recognition of substantive due process in student suspensions.
3. There is no significant relationship between the number of students being suspended and the level of recognition of

substantive due process in student suspensions.

4. There is no significant relationship between the percent of racial minorities present in the school student population and the level of recognition of substantive due process in student suspension.

5. There is a positive relationship between the percent of racial minorities being suspended and the level of recognition of substantive due process in student suspensions.

6. There is no significant relationship between the percent of males present in the school population and level of recognition of substantive due process in student suspensions.

7. There is no significant relationship between the percent of males being suspended and the level of recognition of substantive due process in student suspensions.

8. There is no significant relationship between the percent of students that were eligible in Title I programs and level of recognition of substantive due process in student suspensions.

9. There is no significant relationship between the percent of Title I students that were suspended and the level of recognition of substantive due process in student suspensions.

10. There is no significant relationship between the level of formalized training in school law of high school student disciplinarians and level of recognition of substantive due process in student suspensions.

11. There is no significant relationship between the number of years of administrative experience of high school disciplinarians and the level of recognition of substantive due process in student suspensions.

12. There is no significant relationship between the existence of written rules of behavior for students and the level of recognition of substantive due process in student suspensions.

When hypothesis four was originally analyzed with bivariate regression techniques, the results showed a positive relationship between the percent of racial minorities present in the school student population and the level of recognition of substantive due process in student suspension. However, when hypothesis four was part of the multiple regression testing, statistical significance was not sustained. Since the multiple regression was the more powerful of the two tests, it must be concluded that there is no significant relationship between the two variables.

Overall, it can be concluded that school disciplinarians' level of recognition of substantive due process as measured by the standards of Fundamental Fairness and Fair

Warning are only minimally acceptable. The highest composite score possible for all eight questions was 171.25. The mean score achieved by administrators was 120.36 or 70.28% of the best. While it may only take a "fair-minded" administrator to ensure students receive due process, it appears as though fair-mindedness is not^{so} prevalent a commodity as might be expected. One would have hoped that administrators could have achieved more than a "C" on an examination of their ability to recognize fairness.

A possible reason for the mean scores being at this level is that administrators' focus of attention may be on following guidelines rather than relying on his/her sense of fairness with respect to suspension.

Recommendations

The following recommendations are based upon the above conclusions and research data.

1. Students' rights activists groups such as the Children's Defense Fund should concentrate some of their efforts on investigating those schools which suspend lower percentages of racial minorities since it was found that greater suspicion of discrimination might be found where fewer minorities are represented.
2. Illinois administrator groups such as the Illinois Principals' Association should collect

information on those schools that scored high on measures of recognition of substantive due process. The association could then prepare a series of reports on successful schools to be shared with all schools throughout the State.

3. Student discipline administrators should be more aware of their own inherent ability to sense fairness in their student suspension cases. Administrators should stop relying solely on the application of procedural guidelines in the conduct of student suspension matters.
4. Administrators should initiate staff discussion related to recognizing the elements of fair play among teachers. Most students who are considered for suspension are first identified by teachers. There might be a greater possibility of the administrator accepting a teacher's recommendation for a student suspension if the teacher has been fair in his/her treatment of the student in making the suspension referral.
5. Develop a systematic approach to evaluating the extent to which administrators utilize fair play in student suspension decisions.
6. Establish a staff/administrator committee to

make recommendations on a yearly basis to update the student behavior code.

7. Develop an on-going community survey process to provide information for school administrators concerning attitudes toward discipline and student suspensions in particular.
8. Boards of Education should adopt rules for student behavior that allow administrators the flexibility to be reasonable in their suspension practices.
9. Graduate schools of education administration should develop programs in school law that include exposure to the substantive due process aspects of student suspension.
10. Graduate universities should provide in-service programs to local school districts designed to improve the level of recognition of substantive due process.

Recommendations for Further Study

1. Replicate the study utilizing elementary school disciplinarians to determine if the study results would compare favorably with those of this study.
2. A study should be conducted to determine why high schools that suspend high percentages of

racial minorities have better levels of substantive due process recognition than other schools.

3. Replicate this study after modifying the questionnaire to exclude those questions for which only a small percentage of the sample could respond.
4. Replicate the study after employing a stratified sample that would include only those schools which have Title I programs.
5. Replicate the study using only those schools that enroll racial minorities.
6. A study should be conducted to determine if administrator characteristics alone can account for variations in the level of substantive due process recognition.
7. A study should be conducted to determine whether variations in content and/or format of written student discipline codes account for variations in the level of substantive due process recognition in Illinois public high schools.

BIBLIOGRAPHY

A. BOOKS

- Ary, Donald; Jacobs, Lucy, Chester; and Razavieh, Asghar. Introduction to Research in Education. New York: Holt, Rinehart and Winston, Inc., 1972.
- Cohen, Morris L. Legal Research. St. Paul: West Publishing Co., 1971.
- Engdahl, David E. Constitutional Power - Federal and State. St. Paul: West Publishing Co., 1974.
- Frankel, Marvin E. Criminal Sentences - Law Without Order. New York: Hill and Wang, 1973.
- Fuller, Lon L. The Morality of Law. New Haven: Yale University Press, 1975.
- Galfo, Armand J., and Miller, Earl. Interpreting Education Research. Dubuque: Brown Company, 1970.
- Grossman, Joel B. and Grossman, Mary H., ed. Law and Change in Modern America. Pacific Palisades: Goodyear Publishing Co., 1971.
- Gunther, Gerald. Cases and Materials on Constitutional Law. Mineola, N.Y.: The Foundation Press, 1975.
- _____, 1978 Supplement Cases and Materials on Individual Rights in Constitutional Law. Mineola, New York: The Foundation Press, 1978.
- Kerlinger, Fred N. Foundations of Behavioral Research. 2nd ed. New York: Holt, Rinehart and Winston, Inc., 1973.
- Levine, Alan; Cary, Eve; and Divoky, Diane. The Rights of Students. New York: Avon Publishing, 1973.
- Manley-Casimir, Michael E. "Students' Rights," In The Principal in Metropolitan Schools, pp. 188-207. Edited by Donald A. Erickson and Theodore L. Reller. Berkeley: McCutchan, 1979.
- Morris, Orval A. The Constitution and American Education. St. Paul: West Publishing Co., 1974.

A. BOOKS (continued)

- O'Donnell, Pierce; Churgin, Michael J.; and Curtis, Dennis E. Toward a Just and Effective Sentencing System - Agenda for Legislative Reform. New York: Praeger Publishers, 1977.
- Phay, Robert E. Suspensions and Expulsion of Public Students. Topeka, Kansas: NOLPE, 1971.
- _____, The Law of Suspension and Expulsion: An Examination of the Substantive Issues in Controlling Student Conduct. Topeka, Kansas: NOLPE, 1976.
- Remington, Richard D., and Schork, M. Anthony. Statistics with Applications to the Biological and Health Sciences. Englewood Cliffs, N.J.: Prentice-Hall, Inc., 1970.
- Reutter, Edmund E., Jr. Schools and the Law. New York: Oceana Publications, Inc., 1981.
- _____, Hamilton, Robert R. The Law of Public Education. Mineola, N.Y.: The Foundation Press, 1976.
- Schwartz, Bernard. Constitutional Law - A Textbook. New York: Macmillan Publishing Co., 1979.
- Smith, Page. The Constitution - A Documentary and Narrative History. New York: William Morrow and Co., 1978.
- Van Alstyne, Arvo; Karst, Kenneth L.; and Gerard, Jules B. Constitutional Law. The Sum and Substance of Law Series. Inglewood: Center for Creative Educational Services, 1976.
- Yudof, Mark G. "Suspension and Expulsion of Black Students from the Public Schools: Academic Capital Punishment and the Constitution," In The Courts, Social Science and School Desegregation, pp. 374-411. Edited by B. Levin and W. D. Hawley. New Brunswick, N.J.: Transaction Press, 1977.

B. PERIODICALS

- Bruff, Harold H. "Institutional Due Process in the Twenty First Century: The Future of the Hearing Requirement." San Diego Review 16 (March, 1979): 287-324.

B. PERIODICALS (continued)

- Chesler, Mark; Crowfoot, James; and Bryant, Bunyan I., Jr. "Organizational Context of School Discipline-- Analytic Models and Policy Options." Education and Urban Society 2 (August, 1979): 496-510.
- Clune, William H. "Evaluating School Discipline Through Empirical Research." Education and Urban Society 2 (August, 1979): 440-449.
- Cottle, Thomas J. "A Case of Suspension." National Elementary Principal 55 (September-October, 1975): 4-9.
- _____, "Dying a Different Sort of Death: The Exclusion of Children From School." School Review 83 (November, 1974): 145-148.
- "Developments in the Law--The Constitution and the Family." Harvard Law Review 93 (April, 1980): 1156-1377.
- Gallup, George H. "The 12th Annual Gallup Poll of the Public's Attitudes Toward the Public Schools." Phi Delta Kappan 62 (September, 1980): 33-46.
- Goldstein, Burton B., Jr. "Due Process in the Public Schools - An Analysis for Implementing Them." North Carolina Law Review 54 (April, 1976): 641-675.
- Hollingsworth, Ellen, Jane. "Introduction." Education and Urban Society 2 (August, 1979): 435-439.
- Kaerer, Susan C. "Suspensions in School Discipline." Education and Urban Society 2 (August, 1979): 465-484.
- Kirp, D. L. "Proceduralism and Bureaucracy: Due Process in the School Setting." Stanford Law Review 28 (May, 1976): 841-876.
- Lines, Patricia M. "Codes for High School Students." Inequality in Education 8 (June, 1971): 24-35.
- Lufler, Henry S., Jr. "Debating with Untested Assumptions: The Need to Understand School Discipline." Education and Urban Society 11 (August, 1979): 450-464.
- _____, "Discipline: A New Look at an Old Problem." Phi Delta Kappan 59 (February, 1978): 424-426.

B. PERIODICALS (continued)

- Mills, Nicolaus. "The New Segregation." Commonweal 102 (October, 1975): 466-468.
- Mizell, Hayes. "Suspensions: A Misused Tool?" Osceola 3 (January, 1975): 1-23.
- _____, "Abused Children, Misused Schools." Osceola 3 (January, 1975): 6-21.
- Moss, Michael A. "Due Process Rights of Students: Limitations on Goss v. Lopez - A Retreat out of the 'Thicket'." Journal of Law & Education 9 (October, 1980): 449-462.
- Ransom, Lawrence B. "Procedural Due Process in Public Schools: The 'Thicket' of Goss v. Lopez." Wisconsin Law Review 3 (March, 1976): 934-974.
- Rosenblum, Victor G. "School Children: Yes, Policeman: No - Some Thoughts About the Supreme Court's Priorities Concerning the Right to a Hearing in Suspension and Removal Case." Northwestern Law Review 72 (March, 1977): 146-164.
- Seavey, Warren. "Dismissal of Students: 'Due Process'." Harvard Law Review 70 (June, 1957): 1406-1410.
- Van Alstyne, Arvo. "Cracks in 'The New Property': Adjudicative Due Process in the Administrative State." Cornell Law Review 62 (March, 1977): 445-469.
- Weckstein, Robert. "The Supreme Court and the Daily Life of Schools: Implications of Goss v. Lopez." Inequality in Education 20 (May, 1975): 47-61.

C. REPORTS

- Chesler, M. A. Maintaining Order and Administrative Discretion: The Detroit Code of Uniform Student Conduct. Ann Arbor, MI: Community Resources, Ltd., 1976.
- Children's Defense Fund. Children Out of School in America. Washington, D.C.: Washington Research Project, Inc., 1974.
- _____, School Suspensions: Are They Helping Children? Washington, D.C.: Washington Research Project, Inc., 1975.

C. REPORTS (continued)

- Department of Education, Office for Civil Rights. 1980 Elementary and Secondary Schools Civil Rights Survey, National Summary of Reported Data. Washington, D.C., 1982.
- Education Research Service, Inc. Codes of Student Discipline and Students' Rights. Arlington, VA, 1975.
- Illiois State Board of Education. 1980-81 Illinois Public School Districts and Schools. Springfield, IL: Government Printing Office--State of Illinois, 1981.
- National Association of Secondary School Principals. The Reasonable Exercise of Authority, II. Reston, VA, 1976.
- National School Public Relations Association. Suspensions and Expulsions: Current Trends in School Policies and Programs. Arlington, VA, 1976.
- RAND Corporation. A Million Random Digits with 100,000 Deviates. New York: The Free Press of Glencoe, IL, 1955.
- South Dakota State Department of Education. Standards and Guidelines for Providing Due Process of Law to the South Dakota Student. Pierre, SD, 1973.
- Wayson, W. "Developing Discipline with Quality School," in Citizens Guide to Quality Education. Columbus: Citizen's Council for Ohio Schools, 1978.

D. UNPUBLISHED MATERIALS

- Bangser, Henry, Stephen. "An Assessment of Illinois Public High School Principals' Knowledge of Students' Legal Rights." Ph.D. dissertation, Northwestern University, 1977.
- Bordenick, Frank G. "A Study of Attitudes Towards the Use and Value of Suspension in the Urban Public School." Ph.D. dissertation, University of Pittsburgh, 1976.
- Brumback, Linwood. "A Study of the Personality Modalities of W.R. Bion and Their Relationship to Number of Days of Suspension by Race, Sex and Grade." Ph.D. dissertation, George Peabody College for Teachers, 1978.

D. UNPUBLISHED MATERIALS (continued)

- Glasheen, William, Thomas. "Substantive and Procedural Guidelines for Affording Students Due Process in Suspension and Expulsion Proceedings." Ph.D. dissertation, University of Utah, 1974.
- Krasa, George, P. "The Impact of California's Suspension Legislation, AB 530/2191, Upon Junior High Students' Suspension Recidivism and Staff Attitudes in the Monterey Peninsula Unified School District." Ed.D. dissertation, University of San Francisco, 1981.
- Petak, Dorothy. "An Analysis of Student Suspension Factors in Relationship to School Board Policies and Other Selected Variables." Ph.D. dissertation, Loyola University of Chicago, 1981.
- Tinney, Terrell, Jack. "Procedural Due Process: The Historical Evolution of the Federal Court's View of Public School Student Rights When Confronted with Suspension or Expulsion." Ed.D. dissertation, University of Alabama, 1978.

E. CASE LAW

- Baker v. Owen, 395 F. Supp. 294 (M.D.N.C. 1975), aff'd, 423 U.S. 907, 46 S. Ct. 209, 46 L. Ed. 2d 136 (1975).
- Barnhorst v. Missouri State High School Activities Association, 504 F. Supp. 449 (W.D. Mo. 1980).
- Beckerman v. City of Tupelo, Mississippi, 664 F.2d 502 (5th Cir. 1981).
- Bishop v. Wood, 426 U.S. 341, 96 S. Ct. 2074, 48 L. Ed. 2d 684 (1976).
- Board of Curators of the University of Missouri v. Horowitz, 435 U.S. 78, 98 S. Ct. 948, 55 L. Ed. 2d 124 (1978).
- Brache v. County of Westchester, 658 F.2d 47 (2d Cir. 1981).
- Burnside v. Byars, 363 F.2d 744 (5th Cir. 1966).
- Carey v. Piphus, 435 U.S. 427, 98 S. Ct. 1042, 55 L. Ed. 2d 252 (1978).

E. CASE LAW (continued)

Chance v. Board of Examiners and Board of Education of the City of New York, 330 F. Supp. 203 (S.D.N.Y. 1971), aff'd, 458 F.2d 1167 (2d Cir. 1972).

Connolly v. General Construction Co., 269 U.S. 385, 46 S. Ct. 126, 70 L. Ed. 322 (1925).

Cook v. Edwards, 341 F. Supp. 307 (D.N.H. 1972).

D'Andrea v. Adams, 626 F.2d 469 (5th Cir. 1980).

Dixon v. Alabama State Board of Education, 294 F.2d 150 (5th Cir. 1972).

Evans v. City of Chicago, 522 F. Supp. 789 (N.D. Ill. 1980).

Familias Unidas v. Briscoe, 619 F.2d 391 (5th Cir. 1981).

Fricke v. Lynch, 491 F. Supp. 381 (D.R.I. 1980).

Galveston Independent School District v. Booth, 590 S.W.2d 553 (1979).

Goguen v. Smith, 471 F.2d 88 (1st Cir. 1972).

Goss v. Lopez, 419 U.S. 565, 95 S. Ct. 729, 42 L. Ed. 2d 725 (1975).

Hannah v. Larche, 363 U.S. 420, 80 S. Ct. 1502, 4 L. Ed. 2d 1307 (1960).

Hawkins v. Coleman, 376 F. Supp. 1330 (N.D. Tex. 1974).

Hobson v. Hanson, 269 F. Supp. 401 (D.D.C. 1967).

Horowitz v. Board of Curators of the University of Missouri, 538 F.2d 1317 (8th Cir. 1976).

Jones v. Latexo Independent School District, 499 F. Supp. 223 (E.D. Tex. 1980).

Jones v. State Board of Education of and for State of Tennessee, 279 F. Supp. 190 (M.D. Tenn. 1968).

Kelly v. Metropolitan County Board of Education of Nashville, 293 F. Supp. 485 (M.D. Tenn. 1968).

E. CASE LAW (continued)

- Lee v. Macon County Board of Education, 490 F.2d 458 (5th Cir. 1974).
- Linwood v. Board of Education of the City of Peoria, School District No. 150, 463 F.2d 763 (7th Cir.), cert. den., 390 U.S. 1028, 88 S. Ct. 1416, 20 L. Ed. 2d 284 (1972).
- Locher v. New York, 198 U.S. 45, 25 S. Ct. 539, 49 L. Ed. 2d 937 (1905).
- NAACP v. Medical Center Inc., 657 F.2d 1302 (3d Cir. 1981).
- Ohio Bell Telephone Co. v. Public Utilities Commission of Ohio, 301 U.S. 292, 57 S. Ct. 724, 81 L. Ed. 1093 (1937).
- Petrey v. Flaughter, 505 F. Supp. 1087 (E.D. Ky. 1981).
- Pico v. Board of Education, Island Trees Union Free School District No. 26, 638 F.2d 404 (2d Cir. 1980).
- Rhyne v. Childs, 359 F. Supp. 1085 (N.D. Fla. 1973).
- Rose v. Noshua Board of Education, 506 F. Supp. 1366 (D.N.H. 1981).
- Schweiker v. Wilson, 450 U.S. 221, 67 L. Ed. 186, 101 S. Ct. 1074 (1980).
- Shaffer v. Board of School Directors, 522 F. Supp. 1138 (W.D. Penn. 1981).
- Sullivan v. Houston Independent School District, 307 F. Supp. 1328 (S.D. Tex. 1969).
- Tillman v. Dade County School Board, 327 F. Supp. 930 (S.D. Fla. 1971).
- Tinker v. Des Moines Independent Community School District, 393 U.S. 503, 89 S. Ct. 733, 21 L. Ed. 2d 731 (1969).
- Turner v. Fouche, 396 U.S. 346, 90 S. Ct. 532, 24 L. Ed. 2d 567 (1970).
- U.S. v. Bergman, 416 F. Supp. 496 (S.D.N.Y. 1976).
- U.S. v. State of Texas, 523 F. Supp. 703 (E.D. Tex. 1981).

E. CASE LAW (continued)

Vuyanich v. Republic National Bank of Dallas, 521 F. Supp. 656 (N.D. Tex. 1981).

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

Williams v. Illinois, 399 U.S. 260, 90 S. Ct. 2018, 26 L. Ed. 2d 586 (1970).

Wood v. Strickland, 420 U.S. 308, 95 S. Ct. 992, 43 L. Ed. 2d 214, reh. denied, 421 U.S. 921, 95 S. Ct. 1589, 43 L. Ed. 2d 790 (1975).

F. STATUTES

Illinois Revised Statutes (1973 and Supplement 1974).

APPENDIX A



RIDGE CENTRAL SCHOOL

Chicago Ridge Public School District 127 1/2

10800 South Lyman Avenue

Chicago Ridge, Illinois 60415

Phone 636-2000

December 7, 1981

Dear Fellow Administrator:

Please take just a few minutes of your time to complete the enclosed questionnaire. The questionnaire is meant to be completed by the high school administrator who is responsible for student suspensions. If you are not that person, will you please see that your student discipline colleague is given this information. It is important that the questionnaire be returned by December 11th if possible. Please use the enclosed self addressed stamped envelope for return of the questionnaire.

This questionnaire is being sent to 300 public high schools across the State of Illinois. The survey is part of a most important research study which is being undertaken in order to develop an understanding of the extent to which Substantive Due Process is recognized in student suspensions.

During the course of this study, complete anonymity will be insured. Neither your name nor the name of your school will be referred to in any reports. A four digit code will be the only form of identification used. Rather than individual schools or administrators, the study is interested in analyzing trends among all high schools sampled.

As part of this study, I am attempting to collect official school rules that govern student behavior. Those regulations outlining offenses for which students might be suspended are especially important. In some schools the written rules I am seeking will be contained in a student or parent handbook. In other schools the rules are only found in the school board policy. Whichever situation applies in your case, will you please send me a copy of the rules if at all possible. I shall be happy to reimburse you for the cost of postage and copying. Please use the address on this letterhead for mailing of the student rules.

If you have any questions concerning the study, I would be happy to discuss them with you. If you are interested, I shall send you a summary of the findings when the research is completed. Traveling conditions permitting, I shall volunteer my services as a guest speaker for any school groups you feel are in need of school law information.

Thank you for your most generous cooperation.

Sincerely,

A handwritten signature in cursive script that reads "Lawrence P. Rossow".

Lawrence P. Rossow
Principal

APPENDIX B

Code _____

QUESTIONNAIRE

Section I Background Information

For each of the following, please respond by checking or filling in the blank.

1. How many students were enrolled in your high school building for the 1980-81 school year? (full and part-time combined)

_____ number

2. For 1980-81, what percent of student enrollment in your high school building was male?

_____ %

3. Of the total enrollment, what percent of students was suspended from school one or more days during the 1980-81 school year?

_____ %

4. Of the students suspended during 1980-81, what percent was male?

_____ %

5. For 1980-81, what percent of student enrollment in your high school building could be classified as racial minority?

_____ %

6. Of the students suspended in your high school building during 1980-81, what percent could be classified as racial minority?

_____ %

7. Of the total enrollment, what percent was eligible for Title I reading and/or math during 1980-81?

_____ %

8. Of the students suspended during 1980-81, what percent was Title I students?

_____ %

9. How many years of experience do you have as an administrator with authority to suspend students?

_____ years

10. Have you ever had a formal course in School Law?

_____ 1. yes

_____ 2. no

11. Please give your official title. (check all that apply)

_____ 1. Dean of Students

_____ 2. Assistant Principal

_____ 3. Principal

_____ 4. Superintendent

_____ 5. Dean of Boys

_____ 6. Dean of Girls

_____ 7. Counselor

_____ 8. Other _____
fill in title

12. Does your school have written rules for student behavior?

_____ 1. yes

_____ 2. no

Code _____

Section II Administrative Decisions in Student Suspension Situations

Please read the following situations and select a response for each of the two decisions made at the end of each situation. Your answer should represent your professional view as if the situation were to present itself at your school.

- 5 Strongly Agree with the decision
 - 4 Mildly Agree with the decision
 - 3 Undecided
 - 2 Mildly Disagree with the decision
 - 1 Strongly Disagree with the decision
-

1. In early spring, an interracial demonstration was held on the front lawn of a high school. All 75 students that were present at the demonstration were brought before the Dean of Students. The Dean was aware that the school rules prohibit demonstrations of any sort on school property. He decided to suspend all 75 students for ten school days. However, two of the 75 students object to their being suspended. They claim that they were only "spectators" at the demonstration and did not participate.
(Their claim is supported by evidence.)

The Dean tells the two students that they shouldn't have been at the site of the demonstration in the first place and that their mere presence promoted the dissident's cause. Once more, the Dean pointed out to the objecting students that they did indeed "cut" class in order to attend the demonstration which to him appears to be an action something more than would be taken by casual spectators. The Dean punished the two students just as the other 73.

To what extent do you agree with the decision to suspend?
(circle your response)

5 4 3 2 1

To what extent do you agree with the length of the suspension?
(circle your response)

5 4 3 2 1

2. On October 18, representatives of the U.S. Army had been scheduled to give a career education presentation in the high school auditorium. As students and teachers began to arrive at the auditorium, they found five students protesting the Army's presence in the school. The students had been stationed so as to physically obstruct the doorways and corridors.

There is nothing in the school rules that specifically prohibits the behavior which the students characterized as a "rightful protest." In fact, the only specific school rule governing student behavior is a board policy that stipulates that student misconduct may be punished by suspension. After hearing all of the facts and having given the students an opportunity to tell their side, the Dean of Students decides to suspend the students for ten school days.

To what extent do you agree with the decision to suspend?
(circle your response)

5 4 3 2 1

To what extent do you agree with the length of the suspension?
(circle your response)

5 4 3 2 1

3. Two students have been brought to the Dean of Students by the high school basketball coach. The coach claims that during the course of the school basketball game on Saturday night the two students were verbally abusing the referees. The referees had chastised the coach after the game for having such rude students at our school. The coach wants the students to be suspended for their behavior.

At the suspension hearing, the two students claim that they had no idea that they could be suspended for verbally abusing a referee. The student body typically shouts at the referees. (the record shows that the shouting behavior had been a long-standing practice of the student body and no student has ever been punished for such behavior) However, the Dean wishes to put a stop to this behavior and decides to make these students an example. The Dean suspends the two students by invoking the only written school rule concerning student behavior which is as follows:

The principal or his designee may make such rules and regulations that may be necessary in the administration of the school and in promoting its best interest.

The two students received three day suspensions.

To what extent do you agree with the decision to suspend?
(circle your response)

5 4 3 2 1

To what extent do you agree with the length of the suspension?
(circle your response)

5 4 3 2 1

4. The school rules state that a student may be suspended for possession of dangerous drugs on school property. Having just been caught with marijuana by a school district employee, a student is brought before the Dean of Students. The student was sitting in his car directly across the street from the main entrance to the school.

The Dean of Students gives the student a five day suspension.

To what extent do you agree with the decision to suspend?
(circle your response)

5 4 3 2 1

To what extent do you agree with the length of the suspension?
(circle your response)

5 4 3 2 1

5. The principal of an Illinois high school learned that a number of students were wearing "freedom buttons" containing the wording "One Man One Vote". Thereupon he announced to the entire student body that they were not permitted to wear such buttons in the school. The principal said that the regulation was promulgated because the buttons didn't have any bearing on education and feared that the buttons would cause a commotion. The following day a teacher reported to the principal that 30 students were wearing the freedom buttons that had been prohibited. All 30 students were suspended by the principal for five school days.

To what extent do you agree with the decision to suspend?
(circle your response)

5 4 3 2 1

To what extent do you agree with the length of the suspension?
(circle your response)

5 4 3 2 1

6. A 15 yr. old student came to school in an intoxicated condition. She was brought to the Dean of Students for disciplinary action. Upon reviewing the evidence, the Dean finds that she did not create any kind of disturbance while in school in her condition. In addition, this was her first offense. However, the Dean has always made a practice of suspending students who appeared at school in an intoxicated condition. The students are aware of the Dean's practice. The Dean knows his practice is for the student's own good. The intent of the suspension is to provide the opportunity for the student to receive counseling while out of school. Once more, the Dean knows that this particular student has "problems" with her parents. The Dean proceeds to suspend the student until her problem with her parents is resolved.

To what extent do you agree with the decision to suspend?
(circle your response)

5 4 3 2 1

To what extent do you agree with the length of the suspension?
(circle your response)

5 4 3 2 1

7. The Assistant Principal in charge of student discipline received reports from a number of teachers that many disruptive events were taking place in school because of the distribution of a student "underground" newspaper. Among the disturbances were: students were not paying attention in class because they were reading the paper instead of listening to the teacher; lectures were being interrupted because students want to talk about the articles in the newspaper; students were coming late for class and unusual amounts of students were milling about the halls.

Through investigation, the Assistant Principal identifies two boys that are responsible for publication and distribution of this underground newspaper. The boys are brought to the office to be questioned. They admit to being responsible for the paper. Although the school rules do not say anything about prohibiting underground newspapers, the newspaper is causing some disruption. Therefore, the Assistant Principal suspends both boys for nine days.

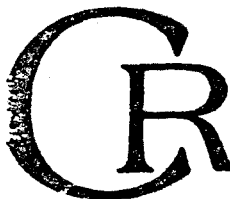
To what extent do you agree with the decision to suspend?
(circle your response)

5 4 3 2 1

To what extent do you agree with the length of the suspension?
(circle your response)

5 4 3 2 1

APPENDIX C



RIDGE CENTRAL SCHOOL

Chicago Ridge Public School District 127 1/2

10800 South Lyman Avenue
Chicago Ridge, Illinois 60415
Phone 636-2000

Dear Panel Member:

Thank you for taking the time to complete the questionnaire. By having shared your expertise, you will be playing a vital role in the success of a most important research study. Please rest assured that you will have complete anonymity during the study. Your name will never appear in any reports.

The purpose of the study is to determine the extent to which school disciplinarians in Illinois public high schools recognize the principles of Fundamental Fairness and Fair Warning in dealing with students who are being considered for suspension from school.

Your responses to the hypotheticals, along with the responses of three other lawyers will be used to develop a weighting factor for each hypothetical. The hypotheticals will be presented to a random sample of 300 public high school administrators across the State. The administrators' answers to these eight discipline situations will be used to compute a "Due Process Composite Score" for each school.

When the research is completed, I shall be happy to send you a summary of the findings. Thank you again for your valuable assistance.

Cordially,

Lawrence F. Rossow
Principal

APPENDIX D



RIDGE CENTRAL SCHOOL

Chicago Ridge Public School District 127 1/2

10800 South Lyman Avenue

Chicago Ridge, Illinois 60415

Phone 636-2000

Dear Fellow Administrator:

Your school was selected as part of a pilot group to determine the adequacy of a questionnaire that will be used later this fall in connection with a most important research study. The purpose of the study is to provide administrators with a package of information that can be used to prevent legal problems from occurring in the area of substantive due process rights in student suspensions.

By completing the enclosed pilot questionnaire, you will be playing a major role in helping administrators around the State of Illinois. As you proceed through the questionnaire, you are invited to add or subtract words and make any written changes you feel would help improve the instrument. Since the actual survey cannot be administered until the results of the pilot are complete, your return of the questionnaire as quickly as possible would be appreciated. Your responses will be treated with absolute anonymity. Neither your name nor the name of your school will ever be used in any way.

If you have any questions concerning the study, I would be happy to discuss them with you. If you are interested, I shall send you a summary of the results of the study when it is completed.

Thank you for your most generous cooperation.

Cordially,

A handwritten signature in black ink, appearing to read 'Lawrence F. Rossow'. The signature is written in a cursive, flowing style.

Lawrence F. Rossow
Principal