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### Publication Date

2015-09-01

### DOI

10.1016/j.ssresearch.2015.05.011

Peer reviewed



# In-services and empty threats: The roles of organizational practices and workplace experiences in shaping U.S. educators' understandings of students' rights



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## ARTICLE INFO

### Article history:

Received 30 October 2013

Revised 29 April 2015

Accepted 22 May 2015

Available online 29 May 2015

### Keywords:

School law

Student rights

Due process

In-service training

Rights understandings

## ABSTRACT

This paper applies theoretical frameworks from organizational sociology and sociolegal studies to examine factors associated with educators' conceptions of students' rights to due process in disciplinary actions. We analyze a unique representative data set of 402 teachers and 200 administrators in U.S. high schools to investigate how educators understand the rights to due process articulated in the Supreme Court case of *Goss v. Lopez* (1975). We then examine whether individual characteristics and participation in organizational processes are associated with educators' understandings of students' due process rights. Findings suggest that educators' understandings of students' entitlements to due process vary with educators' level of education, experience of school-related legal threats, and participation in district or diocese in-service training programs on students' rights. Results point to organizational climate as a key factor in shaping educators' rights conceptions and the role of law in American schools.

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## 1. Introduction

Concerns over student discipline and educational achievement have long occupied sociologists of education. More recently, however, research has explored these issues in relation to students' legal entitlements in American schools (Arum, 2003; Schimmel and Militello, 2007; Davies, 2009; Militello et al., 2009; Morrill et al., 2010; Bracy, 2010). Findings show that teachers and administrators hold limited knowledge of students' rights, despite citing the availability of due process for students facing disciplinary action as a leading legal concern that impacts their day-to-day decisions on the job (Militello and Schimmel, 2008; Militello et al., 2009). To address educators' lack of "legal literacy," researchers have called for increased training on school law (Schimmel and Militello, 2007; Davies, 2009; Militello et al., 2009).<sup>1</sup> The prevailing belief is that adequate training on students' due process rights will allay fears of litigation among educators (Schimmel

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<sup>1</sup> When referring to teachers and administrators in a general sense, we use the term "educators." If we mean to point out distinctions between these groups of school actors, we use "teacher" and/or "administrator." Furthermore, "administrator" will typically refer to site-based administrators, such as principals and assistant principals. When noting the potential role of district administrators, we explicitly make this distinction.

and Militello, 2007; Militello et al., 2009) and ensure the kind of fair and consistent student discipline associated with positive educational outcomes (Gottfredson, 2001; Arum, 2003; Gottfredson et al., 2005; Davies, 2009; Militello et al., 2009).

Although existing literature highlights educators' lack of "legal literacy" (Findlay, 2007; Militello and Schimmel, 2008; Davies, 2009; Militello et al., 2009), analyses of individuals' "correct" and "incorrect" knowledge of the law ignore the substantial ambiguity as to the due process rights the law requires when educators discipline students. Like most Supreme Court decisions, the ruling on *Goss v. Lopez* (1975) leaves significant room for interpretation of the due process rights students hold when facing suspension from school. Organizations respond to the ambiguity in law by outlining policies and procedures that shape the meaning of the law within the organizational context (Edelman, 1992; Edelman et al., 1993; Hoffmann, 2003; Albiston, 2005; Marshall, 2005). Similarly, we argue that the organizational processes implemented in response to the legal environment (Edelman, 1990; Edelman and Suchman, 1997; Arum, 2003) likely shape the meaning of law in U.S. high schools. In analyzing the role of law in American schools, research must take into account the likelihood that educators' experiences within school organizations inform their understandings of the rights entitled to students facing disciplinary sanctions.

Using a unique representative data set of 402 teachers and 200 administrators in U.S. high schools, we first investigate how educators understand the rights afforded under the Supreme Court case of *Goss v. Lopez* (1975). Next, we examine how educators' understandings of rights are associated with individual characteristics, school sector, experiences with perceived rights violations, training on students' rights, legal threats, formal lawsuits, and participation in organizational grievance procedures. To complement our quantitative analysis, we also draw upon in-depth interviews from a set of five public high schools across the United States.

Results show that educators' hold expansive conceptions of students' rights under *Goss v. Lopez*. Educators' conceptions of students' rights are not significantly associated with their involvement in formal lawsuits or interactions with lawyers on school-related matters. However, participation in organizational programs that disseminate information on school law within districts and dioceses (namely in-service trainings) is associated with expanded conceptions of students' rights. In contrast, educators with graduate degrees and educators who experience a school-related legal threat tend to view students' rights as more limited in scope. Our findings suggest that educators' understandings of students' rights are associated with multiple factors within school organizations that may serve to shape the meaning of school law. These findings underscore the importance of accounting for the influence of organizational climates and procedures in shaping educators' rights conceptions and the role of law in American schools.

## 2. Background

The extant literature claims that students' rights to due process are a leading legal concern for educators (Militello and Schimmel, 2008), yet an area of school law in which educators hold limited knowledge (Menacker and Pascarella, 1983; Gullatt and Tollett, 1997a, 1997b; Schimmel and Militello, 2007; Militello and Schimmel, 2008; Militello et al., 2009). Education researchers argue that inadequate knowledge of school law is associated with rights violations, litigation (McLoughlin et al., 1983; Ogletree and Lewis, 1985), and impaired judgment in enacting firm and consistent discipline (Davies, 2009; Militello et al., 2009). However, these studies fail to acknowledge the inherent ambiguity in law and do not engage important sociological and sociolegal approaches to how the law actually operates in different organizational contexts. Training on students' rights may indeed relate to changes in how teachers and administrators structure their routines and perform discipline in schools (Militello et al., 2009). Nevertheless, educators are also embedded in organizations that shape the meaning of students' rights through the interpretations of the law outlined in organizational procedures.

Sociolegal scholars and organizational sociologists have found that law regulating organizations is often ambiguous. Furthermore, the process of disseminating legal knowledge involves multiple layers in which actors may inflate the threat of legal sanctions or transform the meaning of law altogether (Edelman, 1992; Edelman et al., 1992, 2001). Organizations respond to the ambiguity of law and demands from the legal environment by constructing formal structures, such as grievance procedures, which mediate law (Edelman, 1990, 1992). Therefore, "new law can exert strong pressures on organizations to adopt structures or practices that demonstrate attention to normative expectations" of how organizations should treat actors (Edelman, 1990: 1406). Once in place, the compliance professionals who staff these structures may shape understandings of law and the extent to which law poses a threat to organizations (Lipsky, 1980; Lufler, 1980; Edelman, 1990, 1992; Edelman et al., 1992, 2001, 2011; Hawkins, 1992; Hoffmann, 2003). Research on organizational procedures dealing with discrimination (Bumiller, 1988; Engel and Munger, 2003; Edelman et al., 2011), sexual harassment (Gutek, 1985; Marshall, 2005), and family leave (Albiston, 2005) all note that such practices shape conceptions of rights, regardless of formal written policy.

In her account of sexual harassment grievance procedures, Marshall (2005) argues that managerial support, or lack thereof, alters how individuals define sexual harassment. In their enactment of formal written policy on sexual harassment, managers are able to deflect grievances to protect the interests of the organization, and to redefine all but the most egregious offenses as something less serious than harassment. Marshall found that women came to adopt managerial conceptions of what constitutes sexual harassment. In contrast, Hoffmann's (2003) study of dispute resolution procedures in two taxi companies shows that the grievance culture in an organization affects workers' likelihood of using formal grievance procedures as opposed to more informal procedures or taking no action. In a collectively owned worker cooperative that encouraged

grievances, workers were more likely to use a formal grievance procedure than in a privately-owned company that was less supportive of worker grievances. In each of these studies, individual experiences, managerial interpretations of law, and organizational practices shape definitions of rights and structure how individuals act within organizations. In sum, these findings indicate that ambiguity in law leaves room for interpretation and the implementation of workplace policies shape the meaning of law within organizations. We argue similar processes occur within American schools that shape educators' conceptions of students' rights to due process in disciplinary action.

In the U.S., public school districts and, to a lesser extent, dioceses, altered practices and policies in response to Supreme Court rulings and appellate court decisions which significantly changed the legal environments in American schools.<sup>2</sup> Of particular importance for the study of student discipline is *Goss v. Lopez* (1975), which states that students facing suspensions of ten days or fewer hold rights to due process. For such disciplinary infractions, the ruling extended students the "rudimentary" due process rights of an oral or written notice of charges and evidence, along with an opportunity for the student to tell his or her side of the story. As for suspensions greater than ten days, the court ruled that "more formal procedures" *might* be required. However, the court left the precise nature of "more formal" measures unstated in the ruling and even left some ambiguity as to the rights extended to students in the case of suspensions shorter than ten days. The ruling states, "Nor do we put aside the possibility that, in unusual situations, although involving only a short suspension, something more than the rudimentary procedures will be required." This lack of precision regarding the measures of due process afforded to students facing short-term suspensions passes on to schools the task of interpreting the law and designing organizational practices in compliance with the statute.

In response to court rulings and the normative legal environment, schools set in place training programs on student disciplinary protocols and the grievance procedures through which students could contest perceived rights violations, such as inappropriate discipline and lack of due process in the handing down of disciplinary sanctions (Arum, 2003). Although these organizational structures may serve to support compliance with formal statutes, the exercise of discretion and the interpretations of "rudimentary" and "more formal" due process may alter the scope of *Goss v. Lopez* as the law is filtered through layers from court decisions to school organizations (Edelman et al., 1992; Hawkins, 1992). For instance, participation in lengthy procedures and detailed programs may substantiate educators' fears of litigation, while administrative discretion in resolving disputes may diffuse threats of legal action. Therefore, the norms and cultures surrounding student discipline in American high schools may promote conceptions of students' rights as expanded or contracted, despite training (or lack of training) on the letter of the law.

Informed by sociological and organizational sociology theoretical frameworks, we examine how educators' experiences with school procedures, legal threats, and formal lawsuits are associated with conceptions of students' entitlements to due process when facing discipline in schools. Specifically, we address the following questions: (1) Do educators generally conceive of students' rights to due process as more or less expansive than the protections suggested under *Goss v. Lopez*? (2) Are individual experiences with legal threats and formal lawsuits associated with conceptions of students' rights to due process? And (3) how are educator training programs and involvement in structures within school organizations associated with conceptions of students' rights? Given the ambiguity of the language in *Goss v. Lopez* and the potential for organizational practices to shape the meaning of the law, it is imperative that we move beyond attempts to gauge a "correct" understanding of the law to examine how organizational experiences shape conceptions of law and rights.

Below, we describe our data and mixed-methods approach to examining educators' understandings of due process rights afforded to students. We then present quantitative findings regarding how educators' understandings of students' rights vary across individual background, school characteristics, involvement in school-related legal matters, and participation in organizational procedures. We supplement our quantitative findings with qualitative analyses of how educator training, organizational practices, and threats of litigation within school contexts are potentially associated with understandings of students' rights to due process. We conclude by suggesting that the design of school disciplinary policies should take into account the role of organizational contexts in shaping the meaning of students' rights.

### 3. Data and methods

The quantitative and qualitative methods outlined below allow us to measure the relationships between educators' experiences with perceived rights violations, school-related rights contestations, organizational processes that potentially disseminate information on students' rights, and understandings of law in U.S. secondary schools. Given the cross-sectional nature of our data, we can uncover associations but cannot establish causation. To examine understandings of due process rights in the discipline of public and private high school students in the U.S., we collected student, teacher, and administrator data through ethnographic and survey methodologies as part of the School Rights Project (SRP). The School Rights Project includes site-based survey data from 24 traditional public, Catholic, and charter high schools spread equally across California, New York, and North Carolina. Additionally, SRP researchers collected ethnographic field notes and interview data

<sup>2</sup> Dioceses likely faced normative isomorphic pressures (DiMaggio and Powell, 1983) to implement organizational practices surrounding students' rights which are similar to those in public schools with respect to compliance to law (DiMaggio and Powell, 1983; Edelman, 1990, 1992; Edelman and Suchman, 1997). The history of the transmission of such practices is beyond the scope of this study, but we include private schools to gauge whether significant differences exist in students' rights conceptions across school sector. For further discussion of these court cases and their impact on education in the United States, see Arum, 2003.

from five public schools in the sample across the three states. To supplement the survey data compiled in California, New York, and North Carolina, Harris Interactive was contracted to conduct a national phone survey using nearly the same research instruments utilized in the site-based study.<sup>3</sup>

Due to the small number of administrators in our site-based survey data, we rely on the national data for our quantitative analysis.<sup>4</sup> Our national data come from a random probability phone survey (conducted on our behalf by Harris Interactive) of 402 teachers and 200 administrators in traditional public, Catholic, private, and charter high schools across the United States. The Harris Interactive phone survey made an initial call, plus five to seven additional callbacks for non-respondents, between December 5, 2007 and January 14, 2008. The response rates for teachers and administrators in our sample were 23% and 10.5%, respectively. Given that response rates for phone surveys have declined over the past twenty years (Curtin et al., 2005), it is of little surprise that our response rates appear low. However, research suggests that point estimates in data collected via random-digit dialing surveys with lower response rates generally mirror those from phone surveys which employ additional resources to attain a higher rate of response (Keeter et al., 2006). Supplementary analysis of our site-based sample provided similar results in regression analyses, which supports the robustness of our findings from the national data.<sup>5</sup> Our descriptive statistics for teachers are weighted by type of school (public or private), region, urbanicity, and gender; while administrator data are weighted by type of school, region, and urbanicity. Table 1 presents means and standard deviations for all variables in the analysis. Mean age and percent minority approximate those found in the 2007–2008 Schools and Staffing Survey, although our sample has a greater percentage of males (U.S. Department of Education, 2007–2008).

Separate surveys were constructed for teachers and administrators in order to identify role-specific factors and experiences that potentially influence conceptions of school rights. Each survey is composed of six parts: demographics such as sex, age, race, ethnicity, social background, education, and employment experience; views of school behavioral environment, peer/colleague enforcement of school rules, personal rights, and students' rights; identification of past legal experience; perceptions and understandings of law, legal structures, and institutional authority; understandings of past experiences with law and legal structures on the job; and responses to scenarios of hypothetical school-related legal problems.

Of particular importance in this analysis, respondents were asked to complete a section that elicited normative expectations related to conceptions of students' rights. We construct an index variable comprised of data from a battery of six survey questions regarding personal definitions of due process rights applicable to students. The six questions in the index measure conceptions of legal rights afforded to students facing "minor" and "major" disciplinary sanctions. We define "minor" disciplinary sanctions in our analysis as in-school suspension, lowering of grades due to disciplinary reasons, suspension from extra-curricular activities for disciplinary reasons, and short-term out-of-school suspension (five days or fewer). "Major" sanctions in our analysis include transfer to a different school for disciplinary reasons, and long-term suspension or expulsion.

Following the logic of *Goss v. Lopez*, we distinguish between rudimentary and formal due process. The decision specifies rudimentary due process as including oral or written notice, an explanation of the charges and evidence, and an opportunity for students to tell their side of the story. In contrast, we specify formal due process as including a formal disciplinary hearing, an opportunity to be represented by legal counsel, and an opportunity to confront and cross-examine witnesses bringing the charges (see Table 2). Keep in mind that the decision extends rudimentary due process rights to students suspended for ten days or fewer, but is ambiguous with respect to more severe punishment. Given the ambiguity of *Goss v. Lopez*, we are interested in educators' ideas about students' rights in the context of these various disciplinary actions and how their conceptions of students' rights vary across demographics and work-related experiences.

The due process conceptions index is designed to indicate the extent to which teachers and administrators believed that students were entitled to formal due process rights for minor disciplinary sanctions. In coding the due process index we assigned a "1" if the teacher or administrator reported that students were entitled to rudimentary due process rights for each disciplinary sanction, a "2" if the teacher or administrator reported that students maintained the right to a formal disciplinary hearing, and a "3" if the teacher or administrator reported that students held more formal rights to due process.<sup>6</sup> We then added together the highest values that the respondent assigned to each disciplinary sanction and divided by the number of sanctions to which the individual made a valid response.<sup>7</sup> The due process conceptions index represents the mean perception of the extent of rights granted to students facing disciplinary action. The index scores range from 0.4 to 3.0, with greater

<sup>3</sup> Survey items pertinent to this study do not differ between the three-state instrument and Harris Interactive instrument.

<sup>4</sup> We employ the site-based sample as a reliability check on regression findings rendered from the national data. The results from our three-state sample are not significantly different and available upon request.

<sup>5</sup> Teacher and administrator response rates in the site-based sample were 30.6% and 49.3%, respectively.

<sup>6</sup> In the due process conceptions index we code the right to a formal disciplinary hearing as distinct from rudimentary and more formal measures of due process given that survey respondents may interpret formal disciplinary hearings to include, or not include, the presence of legal counsel.

<sup>7</sup> We argue that including a disciplinary sanction in the index only if the respondent assigned rights to the sanction may artificially inflate the estimation of an individual's conception of students' rights, as some respondents may believe students hold no rights to due process in minor discipline. Therefore, we consider a response valid for inclusion in the calculation of the index variable if the individual assigned at least one element of due process to the discipline in question. A response is also considered valid if the respondent does not assign any elements of due process to the minor forms of discipline and does not state that the discipline cannot happen. This final type of response is one in which the respondent does not believe students to hold any rights to due process in facing minor disciplinary sanctions.

**Table 1**  
Weighted descriptive statistics.

	N	Mean	Std. dev.
Age	585	48.74	(9.888)
Male	602	0.431	(0.496)
White	595	0.861	(0.346)
Nonwhite	595	0.139	(0.346)
Parent's education	596	14.74	(3.106)
Percent master's degree or greater	599	0.791	(0.407)
Years of experience	601	16.10	(9.741)
Administrator	602	0.332	(0.471)
Teacher	602	0.668	(0.471)
Public school	602	0.936	(0.246)
Private school	602	0.064	(0.246)
Total student enrollment	600	1.161	(837.2)
Percent minority students	589	35.02	(31.41)
Percent low income	583	43.47	(26.69)
Urban school	596	0.295	(0.457)
Suburban school	596	0.498	(0.500)
Rural school	596	0.207	(0.405)
Northeast region	600	0.192	(0.395)
Midwest region	600	0.273	(0.446)
South region	600	0.268	(0.443)
West region	600	0.267	(0.443)
Served as union representative	597	0.237	(0.426)
Participated in district grievance procedure	598	0.119	(0.324)
Attended an in-service on students' rights	592	0.635	(0.482)
Experienced a rights violation	601	0.300	(0.458)
Accused of inappropriate discipline	599	0.219	(0.414)
Faced a school-related lawsuit	600	0.034	(0.182)
Consulted lawyer on students' rights	598	0.307	(0.461)
Threatened with a school-related lawsuit	598	0.228	(0.420)
Colleagues support in rule enforcement	600	0.926	(0.262)
Colleagues consistent in rule enforcement	594	0.891	(0.312)
Perception of student behavior	602	2.411	(0.656)
Due process conceptions index	587	2.262	(0.665)

**Table 2**  
Disciplinary sanctions and entitlements to due process.

<b>Minor sanction</b>	<b>Rudimentary due process</b>
In-school suspension	An oral or written notice of charges
Grades lowered for disciplinary reasons	An explanation of evidence
Suspension from extra-curriculars for disciplinary reasons	An opportunity to present their side of the story
Out-of-school suspension of five days or fewer	
<b>Major sanction</b>	<b>Formal due process</b>
Transfer to alternative school for disciplinary reasons	A formal disciplinary hearing
Long-term suspension or expulsion	An opportunity to be represented by legal counsel
	An opportunity to confront and cross-examine witnesses bringing the charges

values signaling the perception that students hold expanded rights to due process.<sup>8</sup> We constructed multiple versions of the index variable to gauge whether our results were sensitive to alternative coding schemes. These versions varied the coding values assigned to a formal disciplinary hearing, permitted the response that a particular form of discipline could not happen,<sup>9</sup> and altered the definition of a valid response. None of the alternative coding schemes significantly altered results. Additional analyses are available upon request.

Eight key independent variables operationalize potential factors associated with educators' understandings of students' rights to due process. To examine the relationship between involvement in union leadership and rights conceptions, we use a

<sup>8</sup> Important to note in the discussion of the due process conceptions index is the potential for attenuation bias due to how we code the variable. For all six sanctions, respondents are able to express less expansive students' rights by assigning no rights to minor forms of discipline and only rudimentary rights for major forms of discipline. However, respondents may only express conceptions of students' rights that expand beyond a reasonable interpretation of *Goss v. Lopez* by assigning more formal measures of due process rights to minor forms of discipline. This likely serves to bias the variable toward zero. The coding of this variable is important to recall in the interpretation of results below, as we find that educators report that students hold expansive rights to due process in discipline, despite any potential bias toward zero.

<sup>9</sup> We chose to consider the response not valid if the respondent only stated that the form of discipline cannot happen. If a school handed down an illegal sanction, the student would hold recourse in contesting the discipline. In this line of thinking, some respondents stated that a discipline cannot happen, while also assigning rights to due process for the given sanction. For these respondents, we code their answer to the corresponding sanction as the highest level of due process they feel the students would hold in challenging the discipline.



dummy variable for experience as a union representative or steward. To measure the associations with perceived rights violations, we use a dummy variable indicating whether the educator reported harassment by a supervisor or coworker or reported having been a victim of discrimination based on race, sex, religion, national origin, sexual orientation, pregnancy, or veteran status. A related variable captures whether the teacher or administrator reported having been accused of violating a student's rights by inappropriately disciplining the student. Additionally, we include variables indicating participation in district grievance procedures following perceived school-related rights violations, attendance at district- or diocese-mandated in-service trainings on the rights of students, contact with district or diocese legal counsel on students' rights, and experience with a school-related lawsuit. Finally, we measure whether the respondent has ever been *threatened* with a school-related lawsuit without facing subsequent legal action.<sup>10</sup>

It may be the case that student behavior and disciplinary climate within schools are associated with educators' ideas about the due process rights of students facing discipline. For instance, teachers and administrators at schools where students are perceived poorly behaved, yet rules are not enforced, may view students as having extensive rights. On the other hand, educators in schools enacting highly punitive disciplinary protocols may view "zero tolerance" policies and police presence as an indication that students have fewer rights. To examine the relationships between our key independent variables and understandings of students' rights, net of school disciplinary and behavioral climate, we include three control variables.<sup>11</sup> Two dummy variables indicate, respectively, whether teachers and administrators feel supported by their colleagues in enforcing school rules and whether teachers and administrators feel rules are consistently enforced in classrooms. Another variable is an index of student behavior that combines six survey items indicating the frequency with which teachers and administrators perceive students at their particular school site talk back to teachers, cut class, disobey rules, fight with each other, threaten to assault teachers, or physically assault teachers. Each of these variables was initially coded from one (never) to five (very often). The index variable represents the mean response to the six variables on student behavior.<sup>12</sup>

Each of our models also include controls for respondent's age, sex, race, education, parents' highest years of education, job title (teacher or administrator),<sup>13</sup> total years of experience as a teacher or administrator, school sector (public or private),<sup>14</sup> school size, school urbanicity (urban, suburban, or rural), percent of student population from minority families, percent of student body from low-income families,<sup>15</sup> and region of the United States (Northeast, South, Midwest, or West). Due to small numbers of racial minorities in our sample of educators, we indicate race with a dichotomous variable coded as "1" if the respondent is nonwhite.<sup>16</sup> Also, we code respondent's education as a dummy variable indicating if the teacher or administrator holds a master's or doctorate degree.<sup>17</sup> In preliminary analyses we interacted administrator status and school sector with key independent variables. These interaction terms proved insignificant and are omitted from the results presented here.

Although the Supreme Court decision on *Goss v. Lopez* initially pertained to only students in public schools, we include a dummy variable for private schools to note any potential variation across school sector. Given the small number of private schools in our national sample ( $n = 42$ ), we include and interpret this variable with caution. Additionally, we ran analyses with only public school respondents with no significant change in results. The findings shown below call for future research with greater attention paid to school sector in the examination of students' rights in U.S. schools.

We use ordinary least squares (OLS) regressions to examine factors associated with educators' conceptions of students' due process rights. Missing data on independent variables was minimal with no greater than 3% of cases on any measure. To account for missing data, we ran each analysis with listwise deletion, mean substitution, and multiple imputation. Neither mean substitution nor multiple imputation significantly altered our coefficients. Given that we are measuring associations, rather than attempting to generate causal estimates, we report regression coefficients with listwise deletion. All models using mean substitution and multiple imputation are available upon request.

To deepen our understanding of rights conceptions among teachers and administrators, we collected ethnographic field notes and conducted interviews with 34 teachers and 7 administrators from five public high schools out of the 24 total schools in the site-based sample. As discussed in [Morrill et al. \(2010\)](#), each of the three states in our local data were carefully

<sup>10</sup> It is important to note that facing a legal action for a school-related matter, having one's rights violated, or the participation in a district grievance procedure do not necessarily mean that the lawsuit or grievance pertained to the inappropriate discipline of a student. In contrast, our variable for attending a district or diocese in-service training program on students' rights measures an organizational practice directly related to informing educators on the rights students hold.

<sup>11</sup> Although recent literature examines the impact of police officers, security guards, and surveillance equipment on the everyday operation of schools and students' well-being ([Casella, 2001](#); [Kupchik, 2010](#); [Nolan, 2011](#)), we unfortunately do not have measures for these elements of a school's disciplinary climate.

<sup>12</sup> Additionally, we included each behavior variable separately in our models with no significant changes to results.

<sup>13</sup> Our qualitative data, not reported here, suggest that there may be an association between holding a position as a teacher of students with special needs and conceptions of students' rights. We included an indicator variable for special education teachers in preliminary analyses. We omit this variable for two reasons. The variable did not prove significant in our multivariate analyses and its inclusion did not significantly alter results for the teachers in our survey sample. Also, the inclusion of this variable excludes administrators, as they typically do not also teach.

<sup>14</sup> The school sector variables were separated into traditional public, charter, Catholic, and non-Catholic private schools for alternative analyses with no significant alteration in our findings.

<sup>15</sup> Our measures for a school's racial and class composition are teacher/administrator reported. We include these variables as controls for school characteristics as the perception of a greater amount of minority students and/or low-income students may covary with conceptions of students' rights. Although we do not know the extent to which these measures are biased, analyses which omit these variables provide similar results.

<sup>16</sup> Analyses run with indicator variables for each race did not provide significantly different results.

<sup>17</sup> We also ran models with respondent education coded in number of years and a series of indicator variables for master's and doctorate degrees with no significant change in results.

**Table 3**  
Interview demographics.

	N	Mean
Age	32	40.13
Years of experience	40	10.38
	Frequency	Percent
Administrator	7	17.1
Teacher	34	82.9
Male	23	56.1
White	31	75.6
Black	5	12.2
Other race	5	12.2
New York	20	48.8
North Carolina	6	14.6
California	15	36.6
Lower-income school	27	65.9
Higher-income school	14	34.1

chosen as sites to produce variation in rules and procedures regarding school discipline. For the interviews, researchers chose school sites which varied in student-body racial composition and household income as indicated by percentage of students eligible for free or reduced-price lunch. In both California and New York we conducted ethnographic observations and in-depth interviews in one higher-income and one lower-income school. Due to limited field access in North Carolina, only one higher-income school is represented in the qualitative data. At the higher-income schools in our sample, less than 25% of students were eligible for free or reduced lunch. Our lower-income schools were predominately comprised of students eligible for free or reduced lunch, with 70% of students eligible at the New York site and 58% of students eligible at the California site. Within the schools, the SRP team purposively selected respondents to represent a wide range of demographics and experiences of students, teachers, and administrators.

For the purposes of this analysis, we focus on the data gathered through the teacher and administrator in-depth interviews, which were taped and transcribed. Each of the interviews lasted between 30 min and 2 h. The structure of each interview provided the opportunity for educators to provide impressions on the social organization and student body of their school; note personal characteristics and employment history; explain any school-related disputes which may have occurred; and offer perceptions on formal school rules and the rights held by students. SRP interviewers structured each session to combine open-ended with semi-structured interview techniques used effectively in previous studies of informal disputing in organizations (e.g., Morrill, 1995) and legal consciousness (e.g., Ewick and Silbey, 1998), while focusing explicitly on school rules and students' rights (Morrill et al., 2010). Researchers coded the transcripts in ATLAS.ti in order to facilitate detecting themes and quotes representative of teachers and administrators interviewed across all the sites.

To uncover themes and ensure representativeness, we performed analyses of the following relevant coding categories: rights and law understandings, responsibilities, school/local rules, authority, normative domains, and mobilization in response to normative breaches. Using ATLAS.ti we were able to create frequency counts which note accusations of inappropriate discipline, experiences of legal threats, self-assessments of legal knowledge, mechanisms utilized to learn school law, perceptions of students' rights to due process, and perceptions of school disciplinary climate. Table 3 presents the demographic characteristics of interviewed individuals.

## 4. Results

### 4.1. Quantitative findings

Descriptive analyses of our due process conceptions index show that educators generally believe students hold expansive rights to due process. If one were to interpret *Goss v. Lopez* to mean that rudimentary due process protections apply to students facing minor disciplinary sanctions and more formal due process protections apply to more serious forms of discipline, the due process conceptions index would equal 1.67. Among sample members, the mean due process index score is 2.262. These expansive conceptions of students' rights are found across educator demographics, levels of education, years on the job, experience with school-related legal matters, institutional position, school sector, and school characteristics.<sup>18</sup> In short, teachers and administrators, across demographics and work experiences, hold expansive conceptions of students' rights to due process in facing disciplinary sanctions.

Regression analyses indicate that these conceptions of students' rights vary with key individual characteristics and experiences within school organizations. Table 4 presents results from OLS regressions of the dependent due process conceptions index variable on individual characteristics, school characteristics, and educator involvement in a union. Across all models, males and educators with degrees at the master's level or higher tend to perceive students' due process rights as more

<sup>18</sup> T-tests, not reported here, show that the due process conceptions index significantly differs from 1.67 for all subgroups. These tables are available upon request.



**Table 4**  
OLS regressions of perceptions of students' due process rights on key independent variables.

	Perceptions of students' due process rights				
	Model 1	Model 2	Model 3	Model 4	Model 5
<i>Personal characteristics</i>					
Age	0.004 (0.004)	0.003 (0.004)	0.003 (0.004)	0.002 (0.004)	0.002 (0.004)
Male	−0.194** (0.067)	−0.184** (0.067)	−0.170* (0.068)	−0.153* (0.070)	−0.152* (0.070)
Nonwhite	−0.103 (0.093)	−0.112 (0.093)	−0.113 (0.094)	−0.127 (0.092)	−0.114 (0.091)
Parent's education	0.001 (0.010)	0.002 (0.009)	0.002 (0.010)	0.003 (0.009)	0.003 (0.010)
Percent master's degree or greater	−0.286*** (0.072)	−0.270*** (0.073)	−0.275*** (0.073)	−0.278*** (0.073)	−0.279*** (0.074)
Years of experience	0.006 (0.004)	0.004 (0.004)	0.004 (0.004)	0.005 (0.005)	0.005 (0.005)
Administrator	0.233** (0.086)	0.163 (0.092)	0.173 (0.094)	0.242* (0.113)	0.232* (0.117)
<i>School characteristics</i>					
Private school	−0.129 (0.159)	−0.110 (0.160)	−0.105 (0.163)	−0.091 (0.164)	−0.115 (0.166)
Total student enrollment	0.000 (0.000)	0.000 (0.000)	0.000 (0.000)	0.000 (0.000)	0.000 (0.000)
Percent minority students	−0.001 (0.001)	−0.001 (0.001)	−0.001 (0.001)	−0.001 (0.001)	−0.001 (0.001)
Percent low income	0.000 (0.002)	−0.001 (0.002)	0.000 (0.002)	0.000 (0.002)	0.000 (0.002)
Urban school	−0.092 (0.082)	−0.091 (0.081)	−0.095 (0.082)	−0.094 (0.081)	−0.096 (0.081)
Rural school	0.020 (0.077)	0.022 (0.077)	0.022 (0.077)	0.028 (0.076)	0.024 (0.076)
Midwest region	−0.051 (0.085)	−0.056 (0.087)	−0.057 (0.087)	−0.059 (0.086)	−0.058 (0.086)
South region	0.043 (0.099)	0.037 (0.099)	0.040 (0.100)	0.035 (0.100)	0.026 (0.100)
West region	0.169* (0.085)	0.157 (0.087)	0.154 (0.087)	0.160 (0.085)	0.143 (0.088)
<i>Union experience</i>					
Served as union representative	0.001 (0.070)	−0.009 (0.072)	−0.011 (0.072)	−0.003 (0.072)	−0.006 (0.072)
<i>Organizational programs</i>					
Participated in district grievance procedure		0.041 (0.087)	0.039 (0.086)	0.042 (0.085)	0.048 (0.085)
Attended an in-service on students' rights		0.144* (0.069)	0.142* (0.069)	0.168* (0.069)	0.166* (0.069)
<i>Prior rights violations</i>					
Had one's rights violated			0.063 (0.063)	0.088 (0.065)	0.099 (0.067)
Accused of inappropriate student discipline			−0.026 (0.078)	0.036 (0.081)	0.038 (0.082)
<i>Formal legal interaction</i>					
Faced a school-related lawsuit				0.052 (0.161)	0.055 (0.160)
Consulted lawyer on students' rights				−0.018 (0.091)	−0.020 (0.091)
<i>Legal threats</i>					
Threatened with a school-related lawsuit				−0.209* (0.086)	−0.209* (0.086)
<i>Organizational climate</i>					
Colleagues support in rule enforcement					−0.015 (0.109)
Colleagues consistent in rule enforcement					0.093 (0.091)
Perception of student behavior					−0.036 (0.061)
Constant	2.231*** (0.259)	2.200*** (0.259)	2.172*** (0.261)	2.168*** (0.260)	2.165*** (0.325)

Table 4 (continued)

	Perceptions of students' due process rights				
	Model 1	Model 2	Model 3	Model 4	Model 5
Observations	511	511	511	511	511
R-squared	0.079	0.088	0.090	0.103	0.106

Robust standard errors in parentheses.

\*\*\*  $p < 0.001$ .

\*\*  $p < 0.01$ .

\*  $p < 0.05$ .

limited in scope. In comparison to teachers, administrators hold more expanded conceptions of students' rights. Although residing in the western United States is associated with a more expansive view of students' rights in Model 1, the significance of this variable disappears in subsequent models.

Models 2 and 3 include measures of participation in grievance procedures, organizational programs, and experiences with perceived rights violations. Perceiving a rights violation and accusations of inappropriately disciplining a student are not associated with educators' rights conceptions. Likewise, participation in district or diocese grievance procedures is not correlated with conceptions of students' rights to due process. In contrast, educators who attended an in-service program on students' rights view rights to due process as more expanded.

Model 4 shows the relationships between involvement in lawsuits, consultations with lawyers, threats of legal action, and conceptions of students' rights to due process. Neither facing a formal lawsuit on school-related matters nor consulting a lawyer on students' rights are associated with educators' rights conceptions. However, educators threatened with a school-related lawsuit that never reached formal legal action hold more limited conceptions of students' due process rights, all else constant. This finding holds in Model 5 with controls for the enforcement of rules in the school and educators' perceptions of student behavior.

Notably, regression results show that private school sector is not associated with educators' conceptions of students' rights, despite the general lack of rights afforded to students in private schools relative to students in public schools (Arum, 2003; Berk, 2007). Likewise, measures of percent minority student body, percent of student body from a low-income family, and urbanicity are not associated with conceptions of due process rights in student discipline. Literature on the construction of violence in schools (Casella, 2001), increased police presence in schools, and punitive school disciplinary regimes (Bracy, 2010, 2011; Kupchik, 2010; Nolan, 2011) examine the degree to which discipline in urban schools with high minority student populations differs from suburban schools with predominately white student populations. Schools in our quantitative sample may employ some elements of these punitive disciplinary regimes, but without more precise institutional measures, we are unable to uncover any potential association between this style of discipline and how educators define students' rights.

We argue that identifying the factors associated with rights conceptions is an important step toward understanding how law filters through school organizations to structure school practices. In the context of minor disciplinary sanctions, teachers and administrators tend to define students' rights in terms of more formal measures of due process. Although we find that these conceptions of students' due process rights vary by administrative status, educator's highest degree, participation in training programs, and experiences with legal threats, our quantitative analysis cannot identify the mechanisms driving these significant associations. To partially address this issue, we analyze interview data to illuminate how normative legal environments surrounding school law may influence educators' understandings of students' rights to due process.

#### 4.2. Learning law on-the-job

Our quantitative findings suggest that educators with graduate degrees hold conceptions of students' rights as more limited in scope in comparison with educators with only a bachelor's degree. The majority of educators in our survey sample had some graduate training, with 68% of teachers and 94% of administrators attaining at least a master's degree. However, our interviews offer few details regarding the manners in which degree programs influenced educators' conceptions of students' rights. Interviewed teachers rarely mentioned undergraduate or graduate programs as a source of legal information, supporting the prior literature that teachers receive little training in school law prior to entering the classroom (Schimmel and Militello, 2007). Although coursework in school law is a common part of principal degree or certification programs (Levine, 2005; Militello et al., 2009), the graduate-educated principals that we interviewed more frequently cited other avenues for learning about students' rights.

What is clear from the interviews is that educators receive most of their knowledge of school law through on-the-job training. A New York City teacher succinctly stated that she learned about school law through "whatever is passed down from the principal." Expanding upon this common response, one teacher in California summarized:

*I come to a lot of it through my interactions with the district and my meetings at the district level. . . . I don't have a website I depend on to look up code and learn new laws, but most of the important things that would affect me every day comes down to me from the district or comes down to me from the administration.*

The role of district training in learning of school law and students' rights to due process resonated throughout interviews with principals, as well. A principal in North Carolina stated that, although she took a Constitutional law course in graduate school, she learned of relevant laws through an annual district retreat in which the superintendent ensured the staff was "versed in rising issues."

That educators gain knowledge of school law through in-service training highlights the central role that organizational contexts play in shaping conceptions of students' rights. Interview data show that districts place great emphasis on students' rights to due process in outlining protocols for minor disciplinary sanctions. The same principal from North Carolina detailed that these training sessions influence her decisions in student discipline: "I think we always have to handle things within the law. . . It's almost second nature that when you approach a problem you think, 'How will this legally affect them?'" When asked if this represented a change over time, she responded:

*I think it's always been the case, because it's so drummed into an administrator that, you know, that's part of our duties is to follow the law and act within the law. . . I mean any time we have a situation or we, you know, maybe we don't have – we need some advice from Central Office. I mean, we're always talking about – I mean, we always know we're talking within the legal situation.*

An administrator in California concurred, referring to himself as "the physical manifestation of that student-teacher handbook" in highlighting his role in communicating school policies, especially when a teacher and student are in a dispute.

Teacher interviews further show that conceptions of students' due process rights as broad in scope may stem from the extensive administrative protocols established for student discipline that are outlined in district training sessions. The educators we interviewed acknowledged the number of measures of due process necessary even for minor student disciplinary sanctions. According to a teacher in one California school: ". . . generally, when you do have issues with kids it takes months before they're out of your room because of the due process, which is fair to some extent, but it's not fair to be disruptive in the class either." Another California teacher outlined how involved the disciplinary referral process is for even minor infractions at the school:

*. . . you fill out a form and you give the kid a copy of the form, and then you bring the form to administration, and then they will send security, pull the kid out, and then they will deal with it through a detention, a Saturday school, whatever it may be. And it could be for anything, could be excessive tardies, it could be kids that just are confrontational and using foul language in the classroom, any of those kinds of things.*

The interview data underscore the multiple steps required for even minor disciplinary actions, relating to a conception among the educators that the law extends broad rights to due process in schools.

#### 4.3. Legal threats and understandings of students' rights

The survey and interview data also reveal that when teachers or administrators have experienced a legal threat that did not reach litigation, they often see students' rights to due process as more limited. One teacher in North Carolina related a story that highlighted two themes appearing in the interviews where educators noted the experience of legal threats. According to the teacher, a student who refused to remove his hat once inside the building threatened the teacher with a lawsuit after the teacher attempted to remove the hat from the student's head. The teacher went on to explain his more recent reactions to confrontations when students threaten him with a statement such as, "I'm personally going to sue you, you can't touch me":

*. . . I say, "Okay. Here is the deal, . . . You give me the hat, you get the hat back at the end of the year, it's not a problem. But, you walk away from me, you defy my authority, it moves it to a very, very different level and you're going to get suspended, or you're going to get in-school suspension for that." . . . And, on the threat, they figured you can't even touch them. Well, actually we knew enough of the law. You can defend yourself and reasonable restraint is permitted. And snatching a hat off a kid, unless you give him whiplash, I mean that's a ridiculous kind of thing.*

The teacher added that the administrators at his school have constructed the school's reputation as "basically for being pretty strict on the rules, but. . . very passionate about helping their kids. Again, not punishment for punishment's sake."

The first theme we note in the excerpt above is the characterization of some legal threats as largely "a ridiculous kind of thing," in which students and parents claim rights and the ability to sue over trivial matters. Most of the legal threats educators mentioned in interviews were from disgruntled students over minor discipline or grades. A California teacher offered a detailed account of a student making "outlandish accusations" of inappropriate discipline:

*Well, this student accused me of inappropriate discipline and wrote a three page letter to the administration, the principal, as to why I should not be in the classroom, teaching kids; and went on to lie about me suggesting the use of drugs and alcohol on the weekends, using profanity. I mean, totally unfounded accusations against me, just to hurt me as a personal attack against me.*

These sentiments, echoed in other interviews, support those of the North Carolina teacher who claimed that students' threats often are not considered credible. Our findings suggest that educators' who repeatedly hear threats of legal action eventually come to realize the threats rarely result in formal lawsuits and adjust their conceptions of students' rights accordingly.

A second theme noted in interviews in which educators mentioned experience with the threat of legal action is the level of administrative support following the student's threat. Although the teacher from California was initially upset that he "had to go line item by line item on that letter, and explain how it wasn't true, how it was an exaggeration, how it was out of context," his principal assured support in mediating the conflict with the student. "...we met with the kid and the principal and said, 'Hey, this just looks like you're attacking Mr. Crossman.'" In the end, the teacher was satisfied with the student's apology and the student remained in his class for the rest of the school year. This incident suggests that administrative support in the face of student accusations may lead to an affirmed sense of authority among teachers in matters of student discipline. We note a link between these findings and prior literature outlining the relationships between organizational context, administrative discretion and support in dispute resolution procedures, and rights conceptions (Gutek, 1985; Hoffmann, 2003; Marshall, 2005; Findlay, 2014). The social and organizational forces which guide district-level administrators' applications of disciplinary policy may impact educators' understandings of school law (Hawkins, 1992).

## 5. Conclusion

The current analysis examines factors associated with teachers' and administrators' conceptions of students' due process rights. Our findings suggest that organizational practices and individual experiences within organizations shape educators' understandings of legal entitlements in schools. In the process of detailing statutes and outlining disciplinary protocols, in-service training programs may serve to exaggerate conceptions of students' rights to due process, rather than provide educators with a sense that the law is aligned with supporting the flexible use of school discipline. In the case of New York City schools, for example, students and parents are required to sign a form in the beginning of the school year acknowledging that they have familiarized themselves with the possible disciplinary sanctions related to 112 listed infractions in a pamphlet on "Citywide Standards of Discipline and Intervention Measures." The 28-page document also includes a ten-point list of students' rights to due process stating that students hold the right to "due process of law" for suspension or classroom removal, an expression of rights beyond those explicitly afforded under *Goss v. Lopez* for students facing a suspension of ten days or fewer (New York City Department of Education, 2009). These policies and practices outlined in district handbooks institutionalize the perception that students hold extensive rights to due process (Arum and Preiss, 2009).

However, as seen in prior literature on understandings of law in the workplace (Hoffmann, 2003; Marshall, 2005), school-site and district-level administrative support, in the face of legal threats and throughout dispute resolution procedures, moderates the relationship between accusations of rights violations and educators' rights understandings. Following legal threats, support from administrators relates to conceptions of students' rights to due process as more limited in scope. In all, we see in the data a glimpse of the complexity of law within schools and the potential for processes within organizations to reshape the meaning of students' rights. Our findings support prior literature arguing that teachers gain information on school law through colleagues and on-the-job training. However, this is but one way that organizational climates may relate to understandings of students' rights. A greater understanding of these relationships holds implications for education practice and policy.

The organizational environment regarding students' rights and the implementation of internal structures to oversee student discipline potentially instill in educators a sense that American high schools are organizations awash with law (Edelman and Suchman, 1997; Edelman, 2007). In this context, teachers and administrators may perceive student discipline as defined by a set of organizational practices aligned with formal statutes rather than a means to ensure a school climate conducive to learning. Participation in these organizational practices serves as the primary mechanism through which educators form understandings of school law, and the procedures set in place by school organizations hold the power to reshape the meaning of students' rights. In light of these findings, future research must move beyond simply measuring "legal literacy" and recognize the role of organizational contexts in both shaping educators' conceptions of students' rights and the design of practices supportive of equitable and efficient educational environments.

## Acknowledgements

The authors would like to acknowledge the National Science Foundation, Spencer Foundation, Ewing Marion Kauffman Foundation, and other private foundations that provided financial support for this research.

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