

From *Brown* to “Bong Hits”:  
Assessing a Half-Century of Judicial  
Involvement in Education

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# **From the Schoolhouse to the Courthouse: School Discipline and the Law**

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# Research Questions

- How have courts adjudicated between expansion of individual student rights and the school's need for authority and discipline?
- How has law affected school practices and been interpreted and mobilized by students, teachers and administrators?
- What effects have these changes had on moral authority, youth socialization and student achievement?

# Sources

- *School Rights Project*: Arum, Edelman, Morrill and Tyson surveys, interviews and ethnographies in 24 high schools [AEMT]
- “Legal Ambiguity and Case Decisions”: Beattie, Arum and Roksa analysis of school discipline court cases extended through 2002 [BAR]
- “Disparate Impact of Adversarial Legalism”: Arum and Velez reanalysis of 2003-04 Harris survey data of public school teachers and administrators [AV]
- *Judging School Discipline* (HUP, 2003) with Beattie, Pitt, Thompson and Way [JSD]

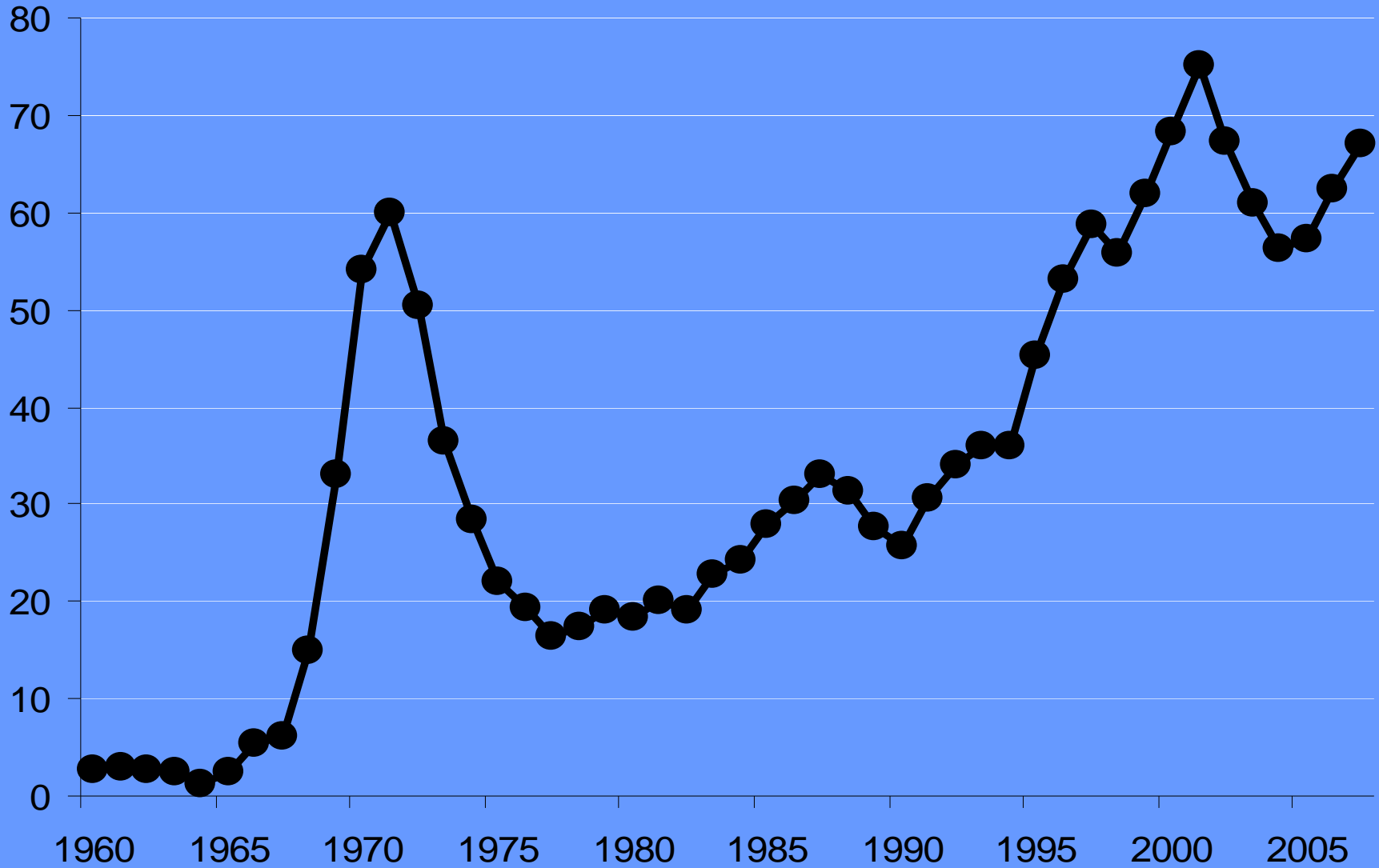
# Landmark Supreme Court Cases (1967-75)

- In re Gault (1967): Granting of procedural rights to youth in juvenile courts – prelude to expansion of student rights.
- Tinker (1968): Granting of free speech rights to students. *Students suspended for wearing arm-bands protesting the Vietnam War.*
- Goss v. Lopez (1975): Granting of rudimentary due process rights to students facing even minor public school discipline. *Students suspended for ten days without due process for involvement in disruptive school protests.*
- Wood v. Strickland (1975): Establishes liability for public officials knowingly and willingly violating student due process rights. *Students sue administrators and board members over being expelled for “spiking” the punch at a Home Economics extra-curricular school event.*

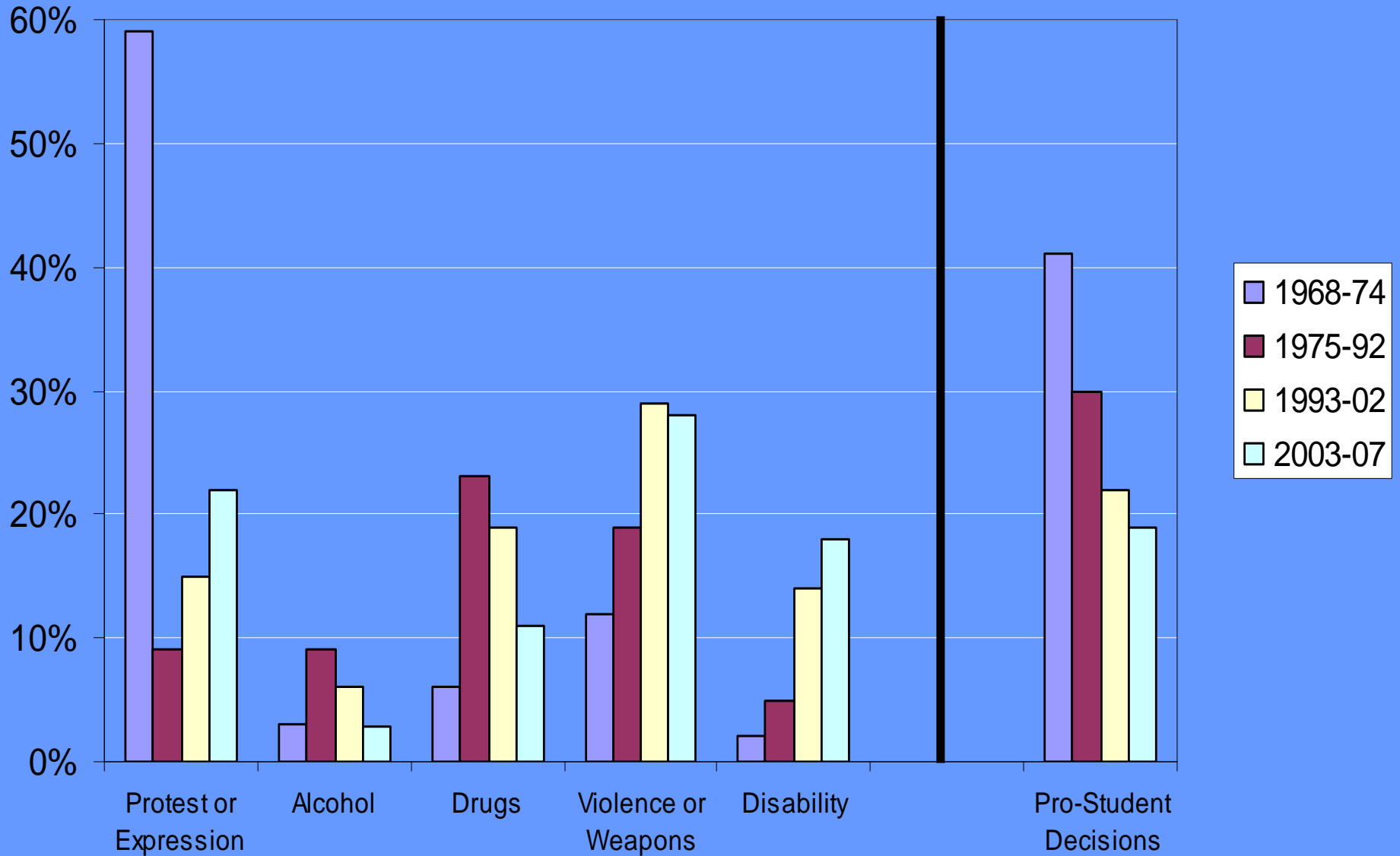
# School Discipline Court Case Data (1960-2007)

- State and federal relevant appellate level cases involving the rights of public K-12 schools to discipline and control students (excluding pure free speech and teacher dismissal cases)
- Content-coding includes:
  - **Type of student misbehavior**
  - **Disability status**
  - **Direction of court-decision**
  - **Identification of school**

**Figure 1: K-12 Public School Discipline Court Cases (Frequency)**



**Figure 2: K-12 Public School Discipline Court Cases (Content and Outcomes)**



# Prevalence of Legal Challenges

## *Dispute pyramid:*

- Threats of legal challenges relatively common (11% of teachers, 55% of administrators, 73% of administrators with 15 years experience - experienced threat of suit)
- Actual legal suits considerably rarer (14% of administrators with 15 years exp.)

# Social Dispersion of Legal Challenges

Court cases more likely to emerge from schools with more privileged students

- 3 percent administrators in high poverty schools (>50 percent) have been sued, compared to 11 percent elsewhere
- Characteristics of schools linked to 2000-2002 court cases: fewer non-white students and greater school resources

# Law and Organizational Practices

- Policies and practices adopted to limit professional discretion of educators administering school discipline
- Increasing adoption of highly bureaucratic, formal legal processes (including increasing role of police, security personnel and zero tolerance policies)

# New York City School Discipline Handbook: “The Right to Due Process”

1. be provided with the Discipline Code and rules and regulations of the school;
2. know what is appropriate behavior and what behaviors may result in disciplinary actions;
3. be counseled by members of the professional staff in matters related to their behavior as it affects their education and welfare within the school;
4. know possible dispositions and outcomes for specific offenses;
5. receive written notice of the reasons for disciplinary action taken against them in a timely fashion;
6. due process of law in instances of disciplinary action for alleged violations of school regulations for which they may be suspended or removed from class by their teachers;
7. know the procedures for appealing the actions and decisions of school officials with respect to their rights and responsibilities as set forth in this document;
8. be accompanied by a parent/adult in parental relationship and/or representative at conferences and hearings;
9. the presence of school staff in situations where there may be police involvement;
10. challenge and explain in writing any material entered in their student records.

# New York City School Discipline Handbook: “The Right to Due Process” (cont.)

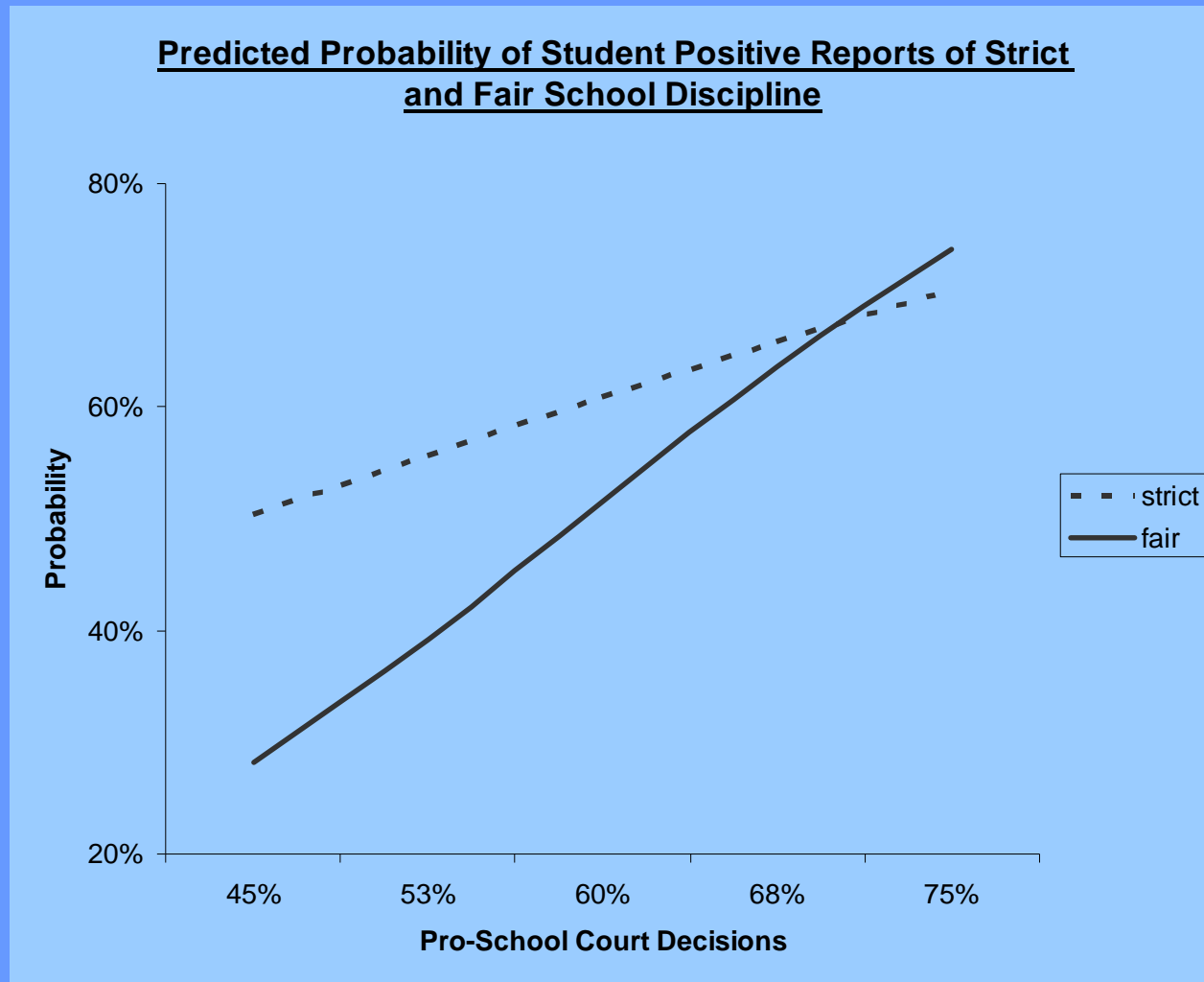
In addition, compliance required with...

- Chancellor’s Regulations (referenced in the document): A-412, A-420, A-421, A-443, A-449, A-450, A-750, A-801, A-820, A-830, A-831, A-832
- “State Education Law and Federal Laws”

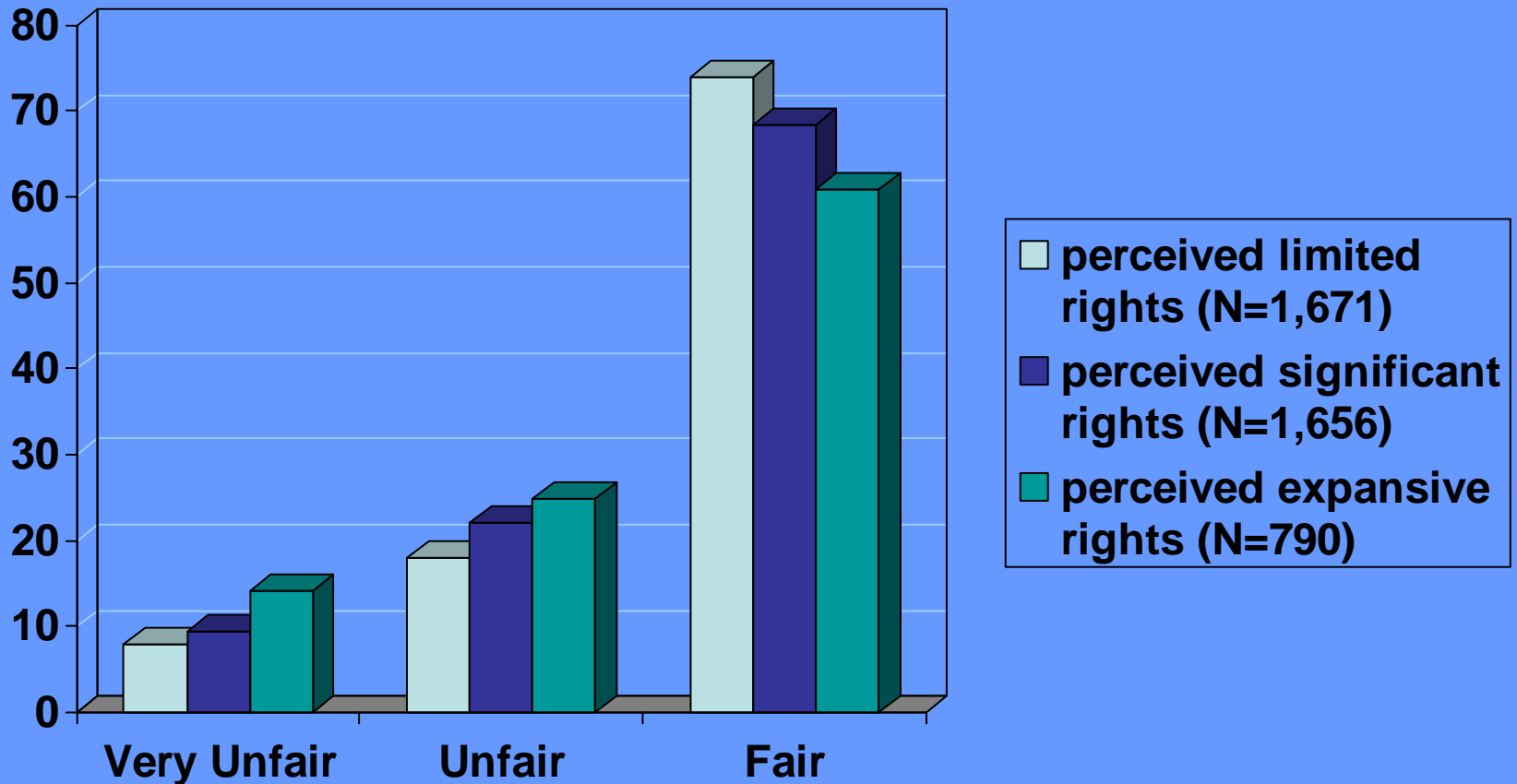
# Individual Rights Consciousness in Schools

	All Students	Teachers & Admin.
<b>Minor discipline – Can't happen</b>	<b>19%</b>	<b>49%</b>
In-school suspension	10%	3%
Grade reduction	15%	48%
Extra-curricular suspension	11%	4%
<b>Minor discipline – Formal due process (for those believing it can)</b>	<b>51%</b>	<b>53%</b>
In-school suspension	36%	38%
Grade reduction	33%	32%
Extra-curricular suspension	34%	35%
<b>Minor discipline – combined constraint</b>	<b>59%</b>	<b>79%</b>

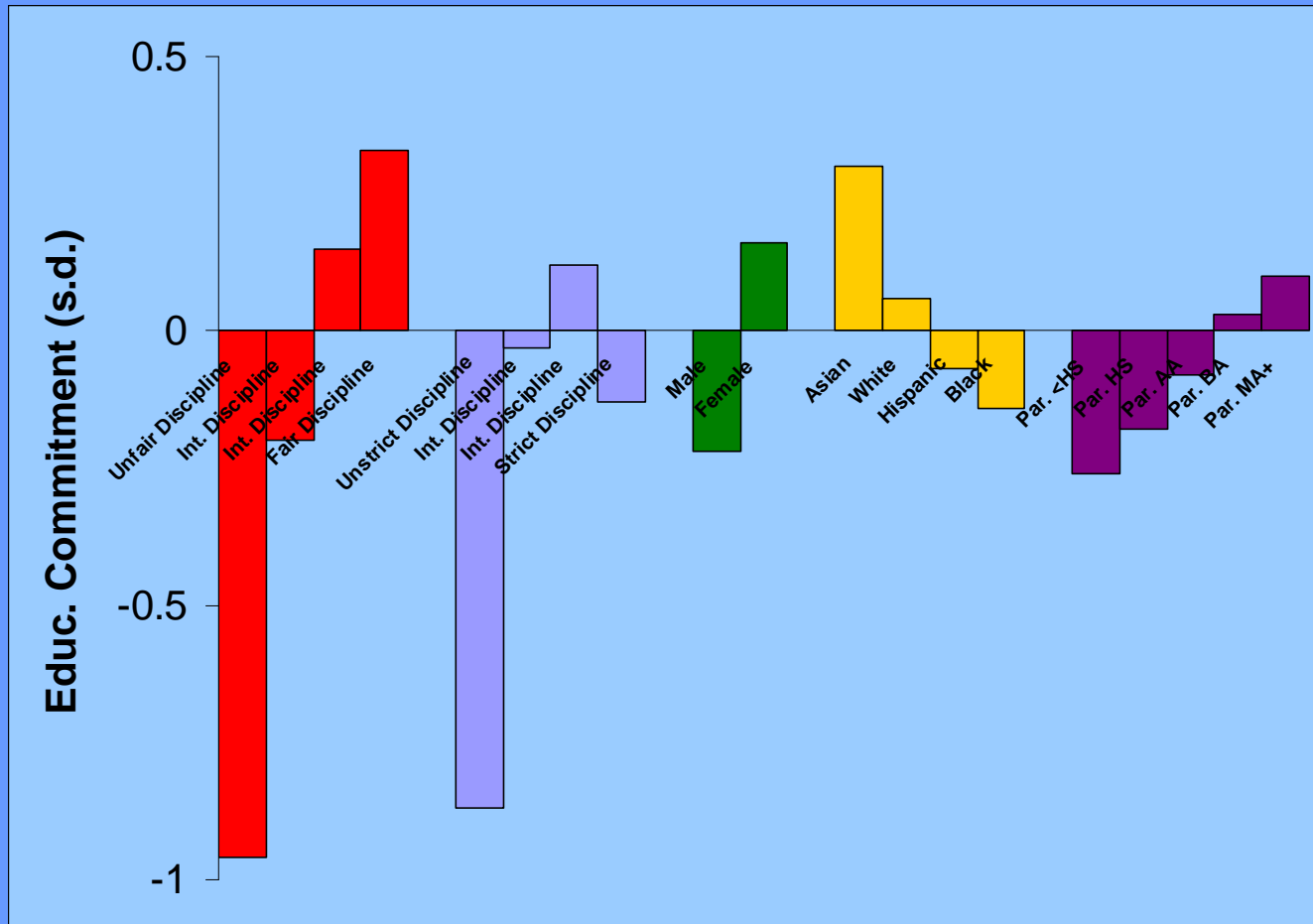
# Courts Decisions and Perception of School Discipline



# Student Perceptions of Legal Entitlements and Fairness of School Discipline



# Perceptions of Rights, Discipline, and Student Educational Commitment



# Conclusion

- Increasing school discipline litigation over time
- Litigation associated with: 1), increased sense of legal entitlements and bureaucratization/legalization of school discipline; and 2), declining moral authority of educators, youth socialization, and educational performance
- Effects of adversarial legalism have exacerbated existing social inequalities in schools