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FLORIDA PUBLIC SCHOOL ADMINISTRATORS' KNOWLEDGE OF LEGAL
ISSUES RELATED TO SEARCH AND SEIZURE

by

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A dissertation submitted in partial fulfillment of the requirements
for the degree of Doctor of Education
in the Department of Educational Research, Technology, and Leadership
in the College of Education
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ABSTRACT

School officials trying to deter drug use, combat crime, and shore up security are conducting searches that are landing school in legal trouble for violating students' constitutional rights. In 1993, West Virginia Supreme Court ruled that a strip search of a student suspected of stealing money was illegal (*State of West Virginia ex rel Gilford v. Mark Anthony B.*, 1993). In another case, a federal appellate court held that a strip search of a student for suspected drug possession was reasonable, although no drugs were found (*Cornfield v. Consolidated High School District No. 230*, 1993). Improper searches of students, lockers and automobiles can result in hundreds of thousands of dollars in civil liability, costs and attorney fees.

This study collected data on administrative knowledge in the area of search and seizure. The analyzed data served to (a) determine if administrators across the state of Florida have a general understanding of the laws regarding search and seizure; (b) identify demographic areas that demonstrate a lack of knowledge related to search and seizure; and (c) suggest improvements to current educational leadership courses of study, state-wide staff development offerings, and ideas for possible conference topics.

The study involved responses from questionnaires received from 139 public school administrators in Florida (17% of the 810 randomly sampled elementary, middle, and high school principals). Analysis of data revealed that more than one-third of the respondents fell below the mean, with no significant difference between building levels or metropolitan statistical area.

This dissertation is dedicated to my father, Ray, who encouraged me, and believed in me through every step of this long journey, to the memory of my mother, Dorothy, who taught me life was not fair, to my husband, John, who taught me the joy of love and happiness, to my son, Shaun, who taught me to be a kid again, and to my unborn child, who taught me there is life other than this.

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CHAPTER ONE INTRODUCTION

Each year, in the state of Florida, students graduate from colleges and universities and enter into public school administration. In order to be eligible for these positions, administrators must undergo advanced and specialized education. These courses of education are sanctioned by the state via the department of education, and successfully completing this course of study and passing the Florida Educational Leadership Exam (FELE) results in receiving professional certification from the state (Ehrensals, 2003). Based on the number of legal issues, this does not adequately prepare a person in the area of search and seizure for administration in a public school.

Over the years hundreds of lawsuits are filed against school districts, local schools, and school personnel (LEXIS-NEXIS, 2004). The bases for these legal actions include violations of the First, Fourteenth and Fourth Amendment to the United States Constitution. The First Amendment to the United States Constitution states that

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Section 1 of the Fourteenth Amendment to the United States Constitution states

All persons born or naturalized in the United States and subject to the jurisdiction thereof are citizens of the United States and of the State wherein they reside. 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 law.

Finally, the Fourth Amendment to the United States Constitution states

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants

shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

This study will focus on violations of the Fourth Amendment, the procedures that administrators follow when conducting the search of a student and the validity of those procedures.

American public high schools are continuing to encounter an increasing number of problems involving school safety and discipline. In a survey conducted by Boomer (1992), 16% of the 238 elementary and secondary principals selected reported:

That during a 1-month period they had searched at least one student because of suspected illegal activity. One-fourth of the searches were for knives, guns, or other weapons, and seventeen percent were for the sale or possession of drugs. Nearly twenty percent of the searches were for missing money or personal property, and 27% were for cigarettes or chewing tobacco. High school students were searched most frequently (43.3%), followed by junior high or middle school students (32.4%), and elementary students (24.3%). (p. 16)

In 1985, Justice White, who wrote the majority opinion for *New Jersey v. T.L.O.* (1985), observed that “maintaining order in the classroom has never been easy, but in recent years, school disorder has taken particularly ugly forms: drug use and violent crime in the schools have become major social problems” (*New Jersey v. T.L.O.*, 1985). Based on Justice White’s observation, Avery (1986) concluded, “The high school administrator has a pressing need to control the presence of contraband in the school.” (p. 6)

Drug use in school has become a major social problem. According to the Department of Health and Human Services, one-third of all students have used illegal drugs before completing eighth grade and more than half before completing high school (Mawdsley, 2003). Most drug deals are not carried out in parking lots or school

lavatories, but by students making drug deals within the classroom, with the teacher present (Czubaj, 1995).

In a 1997 survey conducted by the National Center on Addiction and Substance Abuse (CASA), 76% of high school students and 46% of middle school students claimed that drugs were kept, used, or sold on school grounds. In the same survey, 18% of middle school and 41% of high school students reported seeing drugs sold at school while only 8% of middle school teachers, 12% of high school teachers, and 14% of principals saw drug sales (Mawdsley, 2003).

A wadded-up sheet of paper thrown across the classroom is found to contain marijuana. A student brushes up against another student on the way to the pencil sharpener, a textbook is passed to another student – another drug deal made. While the teacher turns toward the chalkboard to write the lesson, a student jumps out of his seat, and makes a drop two rows to the right before the teacher turns back to the class. A female student loans her make-up compact to a fellow classmate to primp. Beneath the make-up puff is the “hit.” A student enters the classroom with a flannel shirt tied around his waist, one sleeve full of snuff to be sold to classmates. During class changes eye contact is made to prospective buyers, hands pass behind students or to oncoming students, making deals. Money is rolled widthwise, easily concealable in hands. A mere handshake can produce a drug deal, all under the supervision and eyesight of a teacher (Czubaj, 1995).

In all the above scenarios, a warrant to search would not have been practical. It is not reasonable to suspect a student of an unlawful act simply for passing a textbook in class. However, drug deals are made in this manner during school hours. Some students

attend school for the sole purpose of dealing drugs, knowing potential customers are readily accessible and in abundance (Czubaj, 1995).

Problem Statement

The level of administrative knowledge in issues related to search and seizure can lead to a successful year or a disastrous year with respect to costly litigation. There is limited research in this area in the state of Florida. It is important to determine the level of administrative knowledge related to search and seizure in order to ameliorate decisions made by administrators in these situations.

Purpose

The purpose of this study is to determine (a) the extent of administrative knowledge of search and seizure laws/procedures based on the number of years of experience in educational administration; (b) the extent of administrative knowledge of search and seizure laws/procedures related to the level of school (elementary, middle, high, other); and (c) the extent of administrative knowledge of search and seizure laws/procedures related to the demographic composite of the school.

Definitions

The definitions provided herein are legal definitions as defined in Black's Law Dictionary (1979) unless otherwise noted. These definitions enable a common understanding of the legal language discussed in this study.

1. Administrative Search: A search targeting either a random group of students, a selected group of students, or the entire student body, without an individualized suspicion of wrong doing by any particular student.
2. Appellant: The party who takes an appeal from one court or jurisdiction to another.
3. certiorari: A writ of common law origin issued by a superior to an inferior court requiring the latter to produce a certified record of a particular case tried therein.
4. Content Validity: The degree to which a test measures an intended content area; requires both item validity and sampling validity (Gay & Airasian, 2000).
5. Consensual Search: A voluntary agreement to search person or property.
6. Exclusionary Rule: A rule commanding that where evidence has been obtained in violation of the privileges guaranteed by the U.S. Constitution, the evidence must be excluded at the trial.
7. Expectation of Privacy: A belief in the existence of freedom from unwanted, especially governmental, intrusion in some thing or place (Merriam-Webster, 1996).
8. in loco parentis: In place of the parent; charged with some of the parent's rights, duties and responsibilities.
9. In re : In the matter of. A method of entitling a judicial proceeding in which there are no adversaries.

10. Individualized Suspicion: Suspicion that a certain individual has engaged in illegal activity.
11. Item Validity: Whether or not the test items are relevant to measurement of the intended content area (Gay & Airasian, 2000).
12. Probable Cause: Having more evidence for than against. A reasonable ground for belief in certain facts. A set of probabilities grounded in the factual and practical considerations which govern the decisions of reasonable and prudent persons and is more than mere suspicion but less than the quantum of evidence required for conviction (Murray & Murray, 2001).
13. Reasonable Suspicion: A particularized and objective basis, supported by specific and articulable facts, for suspecting a person of a criminal activity.
14. Rural: Of or relating to the country (Merriam-Webster, 1996).
15. Sampling Validity: How well the test samples the total content area being tested (Gay & Airasian, 2000).
16. School Official: One who possesses a delegation of sovereign power from the state.
17. Search: A probing or exploration for something that is concealed or hidden from the searcher. Visual observation that infringes upon a person's reasonable expectation of privacy constitutes a "search" in the constitutional sense.
18. Seizure: The act of taking possession of property for a violation of law or by virtue of an execution.

19. Suburban: Of or relating to an outlying part of a city or town (Merriam-Webster, 1996).
20. Summary Judgment: A court's decision to settle a controversy or dispose of a case promptly without conducting full legal proceedings.
21. Urban: Of, relating to, characteristic of, or constituting a city (Merriam-Webster, 1996).
22. Warrantless Search: Searches without authorization or certification.

Assumptions of the Study

1. It is assumed that individuals will respond honestly and accurately to the questionnaire.
2. It is assumed that individuals will respond in full to the questionnaire.
3. It is assumed that the information provided is accurate based on the respondent's knowledge and the appropriate personnel will complete the questionnaire.

Delimitations of Study

1. The conclusions and implications of this study are delimited to search and seizure issues applicable to federal and state laws and federal and state court rulings relevant to Florida public school administrators.
2. This study is delimited to randomly selected public school administrators in the state of Florida.

3. This study is delimited to the knowledge base of public school administrators in the areas of search and seizure issues specifically addressed by the survey questions.
4. This study does not attempt to determine differences of administrators' knowledge based upon personal variables.

Significance of the Study

Illegal searches and seizures involve issues that create much anxiety among public school administrators. Due to the potential for liability, one would assume that public school administrators would have become experts at dealing with cases involving searches and seizures. In 1983, a group of university professors and practicing school leaders organized the 19 principal competencies into eight domains tested on the FELE (*Assessment & Accountability*, 2004). One of the eight domains tested is school law. There are 40 multiple choice questions that cover 5 sections of school law. Three of these sections relate to possible search and seizure issues. Passage of the FELE has been required to be a public school administrator in Florida.

In light of the epidemic of violence and drugs in schools today, it is not surprising that a large and growing number of court cases address search and seizure issues (Russo, 1995). In 1995, Foldesy and King concluded that, "Public pressure has led school officials to conduct searches of lockers and personal property with greater frequency ... As effective as these practices may seem to be, however, the administrator risks great legal jeopardy by carrying them out" (p. 275). Unless school administrators thoroughly

understand search and seizure law, they may subject their school systems to lengthy court battles, legal expenses, and public embarrassment.

This study collected data on administrative knowledge in the area of search and seizure. The analyzed data served to (a) determine if administrators across the state of Florida have a general understanding of the laws regarding search and seizure; (b) identify demographic areas that demonstrate a lack of knowledge related to search and seizure; and (c) suggest improvements to current educational leadership courses of study, state-wide staff development offerings, and ideas for possible conference topics.

Research Questions

This research study was guided by the following research questions:

1. What is the level of Florida public school administrators' knowledge regarding search and seizure law?
2. What is the correlation, if any, between level of Florida public school administrators' knowledge regarding search and seizure and the number of years in administration?
3. What is the difference, if any, in the knowledge of public elementary, middle, and high school administrators in Florida concerning search and seizure issues?
4. What is the difference, if any, in the knowledge of public rural, urban, and suburban school administrators in Florida concerning search and seizure issues?

Research Methodology

Population

There are approximately 7400 public school administrators within the state of Florida. Using a stratified random sampling, a sample of at least 601 public school administrators was selected for this study. The sample size was obtained using a 95% degree of confidence (to determine a critical z score of 1.96), a margin of error (E) of 2 points, and a population standard deviation (σ) of 25. The calculations used to obtain the sample size are illustrated in Equation 1 (Mendenhall, & Sincich, 1995). The pool of administrators was divided into strata based on the 67 counties in the state of Florida. A random sample from each stratum was chosen to reflect the population of public school administrators in the state of Florida.

$$\begin{aligned}\alpha &= 0.05 \\ z_{\alpha/2} &= 1.96 \\ \sigma &= 25 \\ E &= 2\end{aligned}\tag{1}$$

$$n = \left[\frac{z_{\alpha/2} \sigma}{E} \right]^2 = \left[\frac{1.96(25)}{2} \right]^2 = \left[\frac{49}{2} \right]^2 = (24.5)^2 = 600.25 \approx 601$$

Instrumentation and Other Sources of Data

A self-administered questionnaire was sent to at least 601 public school administrators throughout the state of Florida. Within this group of administrators,

responses were grouped by level of school and by demographic information to form subsets necessary to answer the research questions. Additional data was collected from public records pertaining to the demographics of the schools. These additional data included the socioeconomic status of each school.

The questionnaire (Appendix C) was an original instrument designed by the researcher to collect data on administrative knowledge of search and seizure laws. The questionnaire was divided into the following sections: (a) Section I covered law related questions regarding administrative knowledge of search and seizure; and (b) Section II covered the demographic information related to the administrator's assignment.

In Section I, "Administrative Knowledge of Search and Seizure," respondents were asked to respond to questions related to six areas of search and seizure. The six areas were (1) reasonable suspicion; (2) canine search; (3) strip search; (4) metal detectors/weapon search; (5) drugs/drug testing; and (6) locker/car search. Respondents were asked to reply either "yes, the statement described is allowed by law," or "no, the statement described is not allowed by law." If the respondent was unsure of the correct answer, the respondent marked "don't know." In Section II, "Demographic Information," respondents were asked for information regarding their administrative assignment, the number of years they have been in administration, and demographic information related to their school.

Data Collection

The initial point of contact for the questionnaire was administrators selected at random from a list of administrators provided by the Department of Education. The

sample of administrators was sent via email, the cover letter and a link to the questionnaire. The cover letter explained the purpose of the instrument as well as presented specific instructions and timelines for responding. Each respondent was provided with a login code and exclusive password for verification purposes to identify which of the respondents had completed the questionnaire. To encourage participants to respond, a follow-up email was sent to those who do not respond by April 15, 2005.

The population of the administrator's metropolitan statistical area, and any available missing data on the returned questionnaires, was found from web sites, government documents, professional publications, or phone contact with the institution.

Data Analysis

Data analysis in this study was completed using the statistical analysis software Statistical Package for the Social Science (SPSS) Version 11.0 for Windows. The variables used for this study included each individual answer on the questionnaire, a total score for the questionnaire, number of years in administration, level of school, and metropolitan statistical area. Individual answers, level of school, and metropolitan statistical area were nominal variables. Total score and number of years in administration were interval/ratio variables.

Research Question 1: What is the level of Florida public school administrators' knowledge regarding search and seizure?

The total score for each questionnaire was determined by giving each correct answer a score of 1 and each incorrect answer a score of 0. The scores were tallied to determine the total score. This total score equated to the administrator's knowledge.

Research Question 2: What is the correlation, if any, between level of Florida public school administrators' knowledge regarding search and seizure and the number of years in administration?

A Spearman *Rho* Correlation was used to determine if a correlation exists between the number of years of experience and the administrator's knowledge of search and seizure.

Research Question 3: What is the difference, if any, in the knowledge of public elementary, middle, and high school administrators in Florida concerning search and seizure issues?

The questionnaire responses were sub-grouped by level of school: elementary, middle, or high. Then the total scores were analyzed using a One Way Analysis of Variance (ANOVA) to determine if there was a difference in the mean total scores between elementary, middle, and high school administrators.

Research Question 4: What is the difference, if any, in the knowledge of public rural, urban, and suburban school administrators in Florida concerning search and seizure issues?

The questionnaire responses were sub-grouped by type of metropolitan statistical area: rural, urban, or suburban. Then the total scores were analyzed using ANOVA to determine if there was a difference in the mean total scores between rural, urban, and suburban school administrators.

Organization of the Study

Chapter 1 will introduce the problem, research questions, procedures, and outline the limitations of the study. Chapter 2 will include a presentation of a review of the literature relevant to the problem of the study. Chapter 3 will contain a description of the context for the study and the methodology used for data collection and analysis. Chapter 4 will present the data and analysis of the data. Chapter 5 will present a discussion of the findings of the study, the implications for practice, the recommendations of the study, conclusions drawn/made, and the need for future research.

CHAPTER TWO LITERATURE REVIEW

Historical Analysis of Legal Issues Related to Searches

Although school searches have produced evidence of illicit activities, the courts have deemed some school searches unconstitutional. Many students have been convicted of unlawful behavior as a result of evidence obtained through a school search (Czubaj, 1995).

The public is demanding that greater efforts be taken to prevent violent crime and drugs from entering school buildings and endangering children. Likewise, students demand that these unruly youths be controlled so that their educational progress may not be hindered. However, these demands may not be satisfied without encroaching on the individual student's liberty. School authorities have both the moral and legal responsibility to maintain order and decorum within school and to protect students from harming themselves or others. At the same time, students have constitutional protections of privacy, which cannot be denied (Franco, 93-94). (p. 21)

The process of search and seizure can be one of the most difficult to follow and define. This is one area that school administrators must fully understand in order to protect the rights of the students while on school property. An improper search can lead to litigation and considerable expense (Stader, 2002).

According to Jacobs (2000), searches fall into two distinct categories, individualized suspicion searches, and administrative searches. Individualized suspicion is suspicion that a certain individual has engaged in illegal activity. An example of such a search is the search of a student's locker or backpack based on a tip from another person. An administrative search targets a random group of students, a selected group of students, or the entire student body, without any individualized suspicion of wrongdoing by any particular student, such as a drug test of all student athletes.

The Supreme Court established five exceptions to the requirement of a search warrant. The first exception is when one has knowingly consented to the search. The second exception is when crime-related items are in plain view of the government official. The third exception is when circumstances would render the search useless if a warrant had to be obtained. The fourth exception is when the search is incident to a valid arrest. And the fifth exception is when the search is part of a stop-and-frisk (Baker, 1982).

The Court also held that school officials are not bound by the rigorous standards police officers must satisfy before searching a suspect or his possessions. That means school officials need not have “probable cause” to believe that the law has been violated and that a search will reveal contraband or other evidence of that violation. Instead, the Court held that the Fourth Amendment imposes on school administrators the lower standard of “reasonableness” to justify student searches (Sender, 1985).

The court in *People v. Scott D.* set out the criteria to consider in determining whether reasonable suspicion exists. They are: the child’s age, history, record in school, the prevalence and seriousness of the problem in the school to which the search was directed and the exigency to make the search without delay (Baker, 1982).

The high court identified two components of a reasonable search. First, the search must be “justified at its inception”; that is, there must be “reasonable grounds for suspecting that the search will turn up evidence that the student has violated or is violating either the law or the rules of the school.” And second, the search as actually conducted must be “reasonably related in scope to the circumstances which justified the search in the first place” (Sender, 1985).

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

If school officials violate the Fourth Amendment they may be held liable under Section 1983 of the Civil Rights Act of 1871 for damages that result from a deprivation of rights protected by the Fourth Amendment. In addition, a school district can be held liable for damages under Section 1983 if the deprivation of constitutional rights was the result of an official governmental policy or custom (Schreck, 1991).

History of Cases Prior to *T.L.O.*

The first significant statement made by the Supreme Court of the United States occurred in *Boyd v. United States* in 1886. In this case the government forced a defendant to produce private records so that he could be prosecuted under revenue laws. The Court objected to the coercion based on Fifth Amendment rights against self-incrimination and fourth amendment rights to be free of unreasonable searches and seizures. The Court reasoned that a government action requiring a person to provide the evidence for his own prosecution was a search within the purview of the Fourth Amendment and a violation of it. The Court held that the Fourth and Fifth Amendment violations warranted the exclusion of the evidence from trial. (*Boyd v. United States*, 1886).

Weeks v. United States, 1914, produced the next landmark in Fourth Amendment law. In *Weeks* the government used evidence gained in a warrantless, illegal search to prosecute an individual for using the mail to transmit lottery tickets. The Court, solely on Fourth Amendment grounds, ruled that the evidence uncovered in the illegal search was to be excluded from trial. (*Weeks v. United States*, 1914). This ruling marked a turning point in Fourth Amendment law because it established the exclusionary rule. The exclusionary rule, however, was applied only to federal cases.

In *Phillips v. Johns*, 1930, a pupil attempted to collect damages for being searched when twenty-one dollars was discovered missing from the pocketbook of a teacher. A woman teacher took the plaintiff, a female student, from the classroom into an unused room of the school building. After examining the contents of the pockets of the clothing the girl was wearing and finding no money, the teacher directed the girl to take off the outer clothing and bloomers she was wearing. No money was found as a result of the strip search. The money was later recovered from another student. The parents of the plaintiff charged the school official with an unreasonable search. The lower state court judge stated, in part, "... a schoolteacher stands *in loco parentis* and when a child is charged with taking money, the teacher has the right to search the child the same as a parent would have in order to remove suspicion" (*Phillips v. Johns*, 1930).

The appellate state court judge reversed the decision and declared the search illegal. The judge declared:

A schoolmaster has a right to preserve order and decorum in the school, and to even punish students for infractions of the rules, but he has no right to inflict cruel and unusual punishment, nor to step aside from such purpose to search children on suspicion (*Phillips v. Johns*, 1930).

Forty-seven years after *Weeks*, the Court in *Mapp v. Ohio*, 1961, applied the exclusionary rule to the states (Avery, 1996). In *Mapp v. Ohio* the Cleveland police had received information stating a bomb suspect as well as various illegal gambling paraphernalia could be found in the Mapp home. Upon arrival at the building that housed the Mapp apartment, the police demanded admission without stating a reason. Following a telephone conversation with an attorney, Mapp denied the police entry without a search warrant. Three hours later, police reinforcements arrived and a forced entry was made into the Mapp apartment. Mapp's attorney was denied access to him when he arrived on the scene. When Mapp again demanded a search warrant, police produced a piece of paper, saying that it was a warrant. Mapp seized the paper and hid the supposed warrant inside his shirt. After a struggle, the police forcibly removed the paper from the shirt. The paper was never proven to be an actual search warrant. Mapp was then handcuffed and incarcerated in a bedroom of the apartment. Police then ransacked the apartment, but neither the bomb suspect nor any gambling paraphernalia was found. Certain obscene material was discovered by police in a trunk in the basement of the apartment building. Mapp was convicted of possession of obscene material and imprisoned although Mapp denied the obscene material was his. Even though the magistrate concurred that the search and seizure was unlawful, the Ohio court affirmed the admissibility of the evidence.

The United States Supreme Court overruled the judgment of the lower court. By that action the United States Supreme Court made evidence seized in violation of the Constitution of the United States inadmissible in state courts (*Mapp v. Ohio*, 1961).

In *People v. Overton*, 1968, three detectives of the police department presented a search warrant to Dr. Panitz, the vice-principal of a high school. The warrant was for the search of two students. The boys were searched and nothing was found, but because of the nature of the suspicion, the vice-principal opened the locker of one of the boys, Carlos Overton, a seventeen-year-old student at the school. The locker search disclosed four marijuana cigarettes. Although the warrant was later declared ineffective pertaining to the search of the school lockers, the motion by the defendant to suppress the evidence revealed by the search was denied on grounds the vice-principal had voluntarily consented to the search of the locker of the student and had the right to do so (*People v. Overton*, 1968).

The Appellate Term of the State Supreme Court reversed the conviction of Overton saying since the consent for the search was induced by the search warrant, the consent was not freely given. The New York Court of Appeals reversed the Appellate Term and reinstated the original conviction.

The *Overton* case was appealed to the United States Supreme Court. The United States Supreme Court in an unsigned opinion vacated the judgment of the New York Court of Appeals and remanded the case back to the New York courts for further consideration in light of another United States Supreme Court decision, *Bumper v. North Carolina*.

In *Bumper v. North Carolina*, 1968, a sixteen-year-old boy was convicted of rape and two counts of felonious assault based on evidence found during the search of the boy's room in his grandmother's house. The following facts were presented:

The boy's grandmother, an elderly Negro woman, living in a house in an isolated rural area was confronted at her front door by four white law enforcement officers who claimed the right to enter pursuant to a search warrant. The woman made no attempt to prevent them from entering and said, "Go ahead." Although the warrant turned out to be either defective or non-existent, the conviction stood in North Carolina Court of Appeals on the basis of the grandmother's consent. However, the Supreme Court held that under the above circumstances, the situation indicated coercion that would preclude consent and reversed the decision of the North Carolina Court (*Bumper v. North Carolina*, 1968).

In 1969, the New York Court of Appeals again heard the *Overton* case. The judges, in a five to four decision, reaffirmed the previous conclusion and held that the *Bumper* decision was not relevant in the *Overton* case because Dr. Panitz obviously consented to the search and was not coerced by the search warrant.

Overton was one of the bellwether cases regarding *in loco parentis* and school searches. The court upheld the search on the basis of the vice-principal's consent and wrote:

The school authorities have an obligation to maintain discipline over the students. It is recognized that when large numbers of teenagers are gathered together in such an environment, their inexperience and lack of mature judgment can often create hazards to each other. Parents, who surrender their children to this type of environment, in order that they may continue developing both intellectually and socially, have a right to expect certain safeguards ... it is the affirmative obligation of the school authorities to investigate any charge that a student is using or possessing narcotics and to take appropriate steps, if the charge is substantiated (*People v. Overton*, 1960).

As explained in *Tinker v. Des Moines Independent Community School District* on December 17, 1965, John Tinker wore a black armband to school as a demonstration against the United States military activity in Vietnam. Tinker was suspended from school until he removed the black armband. Suit was brought charging violation of " ... direct, primary First Amendment rights akin to ' pure speech.' " The decision handed down by the United States Supreme Court stated that students, even though juveniles, are 'persons'

under the Constitution of the United States and are, therefore, citizens of the United States and of the state wherein they reside. As citizens, students are entitled to all the rights and privileges of all other citizens (*Tinker v. Des Moines Independent community School District*, 1969).

In re Donaldson, 1969 – the California State Court of Appeals ruled the vice-principal of a high school, acting alone in conducting a search of a locker, was a private person for purposes of the exclusionary rule. Thus, marijuana discovered as a result of the search was admissible in a subsequent juvenile proceeding because it was the result of a reasonable search. Reasoning the Fourth Amendment did not apply to searches by private individuals, the State Court of Appeals stated that the conduct of a person not acting under the authority of a state is not proscribed by the Fourth or Fourteenth Amendments to the Federal Constitution. The Court ruled there were no stated standards for search and seizure by a private citizen not acting as an agent of the state or governmental unit. Therefore, acquisition of property from another person by the private citizen cannot be deemed unreasonable or reasonable. The Court further state the vice-principal, as a school authority, had an obligation to maintain discipline in the interest of proper and orderly school operation (*In re Donaldson*, 1969).

The Court further pointed out that school officials had made a regular practice of entering lockers from time to time, when such things as a bomb, intoxicating liquor, or stolen articles were suspected to be within the locker. The school administration also retained the combinations to all school lockers. In the view of the Court, a joint control was thus established (*In re Donaldson*, 1969).

In *State v. Stein*, 1969, policemen investigating a burglary asked to search a high school student's locker. The high school principal, having custody and control of the school lockers had the right to open and search lockers for contraband upon the request of police officers. The search disclosed a key in a cigarette package, which opened a bus station locker containing the stolen items. The search by police officers led to the conviction of a student on second-degree burglary and grand larceny. The Kansas State Supreme Court judge in the *Stein* case found the student involved did not have exclusive possession of the locker. The student had argued that a *Miranda* warning should have been given before the search of the school locker. The magistrate ruled that the *Miranda* rule was not applicable to a search and seizure situation (*State v. Stein*, 1969).

In *People v. Stewart*, 1970, the dean of boys of a high school initiated a course of action after being informed by a student informer that another student was in possession of drugs. The student was called to the Office of the Dean and required to remove all items from clothing pockets. Drugs and drug paraphernalia were revealed. The New York State Court judge denied a motion of the defense attorney to suppress the drugs and drug paraphernalia as evidence. The denial was made following a determination by the judge that the dean must be considered a private person for purposes of the exclusionary rule. The judge pointed out that evidence seized by a private person, without the knowledge or participation of any governmental agency, could be admissible in a criminal prosecution. The judge stated there was no contention advanced at the hearing, and no suggestion in the record, that the dean was acting either as an agent of the police or in some fashion jointly with the police (*People v. Stewart*, 1970).

The magistrate stated the dean was under an obligation to determine the validity of the information when a reasonable suspicion arose that something of an illegal nature might be occurring. The judge concluded the dean, in the absence of some police involvement, must be considered a private person for purposes of the exclusionary rule (*People v. Stewart*, 1970).

In *Caldwell v. Cannady*, 1971, a police officer made a warrantless search of a juvenile at night away from school grounds and found marijuana. School officials heard of the incident and suspended the juvenile from school. In the suit which followed, the juvenile expressed the position that the search had been an unreasonable one and that school officials could not use the evidence as cause for suspension from school. An injunction was issued and the student was allowed to attend school pending the outcome of the case. The State Court judges applied the exclusionary rule to the school suspension procedures and ruled in favor of the student (*Caldwell v. Cannady*, 1971).

In *People v. Lanthier*, 1971, a high school assistant principal investigated an offensive odor. The source was found in a locker along with packets of marijuana. The marijuana was turned over to the police as evidence. The student involved took the position that the search was unreasonable and the evidence should not be used in a court of law. The Ninth Circuit Court judges ruled that school officials must assume control to protect the other students and that the school officials were correct in pursuing the investigation to determine the cause of the odor (*People v. Lanthier*, 1971).

Schools argue that lockers, desks, and other such areas are school property for which students do not have a legitimate expectation of privacy. On the other hand, students expect some element of privacy in those areas, as evidenced by the fact that the

items school officials are most interested in finding are usually located in student lockers. Backpacks, purses, and other items of storage placed in student lockers pose a different problem; generally, these items would carry all the protections of the Fourth Amendment if carried outside of lockers. But these protections are seemingly thwarted when school officials claim that the placement of these items in school owned lockers strips the students of a reasonable expectation of privacy (Jacobs, 2000).

In *Piazzola v. Watkins*, 1970, a police officer telephoned a university official and expressed concern about the possibility of a student possessing drugs. The police officer requested permission of the university official to search the room of the student. The university official granted permission and the police discovered three packets of marijuana in the student's room. The student was arrested. In the suit which followed, the student took the position the search was unreasonable and without a warrant. The case concluded in the Fifth Circuit Court. The Fifth Circuit Court ruled that the right to search did not extend to a warrantless police search conducted in order to seize criminal evidence. In the *Piazzola* case, the idea to search was initiated by the police, and school officials were bystanders. The search was ruled to have been unreasonable. The determination was made that even though school administrators had the right to search, school administrators could not transfer the right to third party law enforcement officials (*Piazzola v. Watkins*, 1970).

In *People v. Jackson*, 1972, a high school 'Coordinator of Discipline' noticed a suspicious bulge in the pocket of a student while taking the student to the office. The student suddenly ran, and the Coordinator pursued, catching the student several blocks from the school. Prior to police arrival, the Coordinator took possession of drugs and

drug apparatus found in the pocket of the student. The New York Supreme Court judges held the broad power of school officials to search students can be extended beyond schoolhouse property. The judges held school authorities must have such power to control, restrain, and correct students as is necessary to perform the duties of a teacher to accomplish the purposes of education. Despite the search of the student prior to police arrival, the court rejected the theory that “the policeman and the school official conjoined in making the search and seizure.” The court did say, “... classifying the Coordinator as a governmental official,” the legality of the search was to be measured by whether the Coordinator had “reasonable suspicion,” rather than “probable cause,” for believing something unlawful was being committed or about to be committed (*People v. Jackson*, 1972).

In *People v. Bowers*, 1973, a uniformed high school security guard was employed by the board of education to be responsible for school safety and the control of crime. The guard was given the description of a student accused of stealing a watch. The security guard saw a student fitting the description and stopped the suspected student to examine the watch the student was wearing. The watch was not the stolen watch. However, when the coat of the student was open, the guard noticed a slight bulge in the front pocket of the jeans the student was wearing, and an inch of brown envelope protruding from the top of the pocket. The student was asked to empty the pockets of the jeans. The envelope was discovered to contain marijuana and a pipe. The student was turned over to police authorities. The State Court judge determined that marijuana evidence would be suppressed because the security officer was considered the same as a

police officer. In deciding that the security officer should be considered the same as a police officer, the court noted:

It is clear that the security officer is, at least, a governmental agent clothed with the authority of a peace officer and ultimately responsible to the Police Commissioner. He was placed in the school solely for security purposes and served no educational function.

The court, in making its determination, emphasized the critical distinction between a school official and a security officer:

As a general rule, a teacher, to a limited extent at least, stands *in loco parentis* to pupils under his charge. As such, the courts have held that it would not be “unreasonable or unwarranted that he . . . be permitted to search the person of a student where the school official has reasonable suspicion that contraband may be found on the person of his juvenile charge.” Not only have the school authorities the right to inspect but this right becomes a duty when suspicion arises that something of an illegal nature may be secreted.

The judge further stated the envelope could have contained any number of permitted items, and no particular reason had existed for the security guard to suspect marijuana and to require the opening of the packages (*People v. Bowers*, 1973).

In *People v. D.*, 1974, a student had been under observation by school officials for some time for possible drug dealings. The student was observed entering a restroom with a fellow student. Both students exited seconds later. The student had also been observed earlier eating with another student, also under suspicion of dealing in drugs. The student was taken to the office of the principal and was searched by the security coordinator. The search produced thirteen glassine envelopes containing a white powder. The student was then made to strip and a vial containing pills was found. In criminal court the student was sentenced to imprisonment of ninety days. On appeal, the student maintained the drugs were taken illegally. The first State Appellate Court judge affirmed the decision of

the trial court and appeal was taken before the Court of Appeals of New York. The New York Appeals Court ruled there was no probable cause for the search and the search by the school officials had been an unreasonable search (*People v. D.*, 1974).

In *Young v. the State*, 1974, a high school assistant principal observed three high school students walking in the school parking lot during school hours. When approached by the assistant principal, one of the students threw something to the ground. The assistant principal took the students to the office and ordered the students to empty all pockets. One of the students removed less than an ounce of marijuana. That student was charged and convicted of a misdemeanor. The other student, Young, appealed the case. The State Court of Appeals held if police had made the search, the evidence seized would have been suppressed, as there was no probable cause to warrant a search of the defendant. The Court further stated that the Fourth Amendment of the United States Constitution has no application to a search by a private person. However, the Georgia State Constitution and various statutory provisions relating to public education had classified principals or teachers as government agents. The decision was appealed to the Georgia State Supreme Court. That court, for purposes of the Fourth Amendment, created three classifications for persons making a search: private persons, governmental agents, and governmental law enforcement agents. The Court ruled that school officials should be classified as governmental agents. The Court also held that no Fourth Amendment violation had occurred in the search by the assistant principal (*Young v. State*, 1974).

In *Doe v. State*, 1975, a student was observed smoking a pipe in violation of school regulations. Prior to entering the building for class, the student placed the pipe in

the pocket of the sweater he was wearing. A teacher and vice-principal, who observed the student smoking, went to the classroom and escorted the student to a vacant room. Following some forty minutes of conversation, the student surrendered the pipe to the vice-principal and told the vice-principal that the pipe contained marijuana. At trial, the student was found to have possessed marijuana and was committed to an institution for a period of four days. The state case was appealed. The appellate court found that the trial court was correct in admitting into evidence the fruits of the search (*Doe v. State*, 1975).

In *Nelson v. State*, 1975, a student was observed violating school regulations by smoking on school grounds. The dean, after detecting the odor of marijuana, escorted the student to the office. The student was made to empty all pockets. A pack of marijuana and a corn cob pipe were found. The student and the materials found were turned over to law enforcement officials. The trial court denied a motion to suppress evidence and the student entered a plea of *nolo contendere*. The student was placed on probation under supervision for a term of three years. The decision was appealed. The judges concluded that the seizure of appellant's property, consisting of contraband, was justified on the basis of reasonable suspicion as found by the trial court. The denial of appellant's motion to suppress by the trial court was correct (*Nelson v. State*, 1975).

In *Bellnier v. Lund*, 1977, a fifth grade student became aware three dollars were missing. The teacher of the student had had prior complaints from other class members of missing money, lunches, and other items. The teacher, aided by fellow teachers, asked all students in the class to empty pockets and remove shoes. When the money was not located, the students were taken to appropriate restrooms and ordered to strip down to undergarments. Following the search of each student, the three dollars were still not

revealed. Some of the parents of the students brought legal action seeking redress for an allegedly unlawful strip search conducted by teachers and school officials. The United States District Court ruled that there were no facts that allowed school officials to particularize with respect to which students might possess the money. There was reasonable cause to search, but no whom to search. The Court ruled the defendants were entitled to a summary judgment on the issue of the monetary damages (*Bellnier v. Lund*, 1977).

In *State v. McKinnon*, 1977, a high school principal acting on a tip from the local chief of police searched two students for drugs. The search produced several packets of white pills identified as amphetamines. The principal telephoned the police chief. Police authorities came to the school and placed both students under arrest. The police later found that one of the students had two bags of marijuana.

During the trial that followed, the students took the position that the search had been unreasonable and had violated the protection guaranteed by the Fourth Amendment of the United States Constitution. After stating that the high school principal was not a law enforcement officer and was obligated to maintain order and discipline in the school, the State Supreme Court judges said, in part:

We hold that the search of a student's person is reasonable and does not violate his Fourth Amendment rights, if the school official has reasonable grounds to believe the search is necessary in the aid of maintaining school discipline and order ... The factors to be judged in determining whether the school official had reasonable grounds are the child's age, history, and school record, the prevalence and seriousness of the problem in the school to which the search was directed, the exigency to make the search without delay, and the probative value and reliability of the information used as a justification for the search...

Turning to the facts in the instant case, we think it is clear that the principal did have reasonable grounds upon which to base his search (*State v. McKinnon*, 1977).

In *State In Interest of Feazell*, 1978, an assistant principal requested a student to leave class and go to the office of the principal. The assistant principal was acting on information the student was concealing marijuana. In the office of the principal, the student denied concealing any marijuana and refused to be searched. The student was told that if school officials did not conduct the search, the sheriff would be called to make a search. The student then told school officials the marijuana being concealed belonged to another student. The student then placed a bag of marijuana on the desk of the principal. School officials notified the sheriff. The student was adjudicated a delinquent for possession of marijuana in violation of state law. The student appealed. The Louisiana State Court of Appeals judges made the following reasoning:

We can find no jurisprudence, and none is cited by the appellants, which hold that the brief detention of a student in the office of the principal or the assistant principal constitutes an arrest. We conclude that there is no error in the trial court's overruling of the defendant's motion to suppress or in the admission into evidence of the marijuana at the trial on the merits (*State In Interest of Feazell*, 1978)

In *Matter of Ronald B.*, 1978, a school official was informed that a student was carrying a gun in the school. When the school official approached the student, the student's right hand was hidden in a pocket. The school official asked the student for the gun. The student denied possession of a gun and refused to be searched. After the student made a sudden movement with the right hand, the school official grabbed the student's right arm and withdrew the hand slowly from the pocket. The student was holding a .32 caliber pistol. The student was turned over to police. A Family Court

judge held the student to be a delinquent. The decision was appealed. The New York State Supreme Court rejected the contention of the student that the search made by the teacher was the same as a search by a police officer (*Matter of Ronald B.*, 1978).

Diane Doe v. Omer Renfrow, 1979, stated that the problem of illicit drug use had become more acute and more visible within the senior and junior high school during the 1978 academic year. From September, 1978, to March 22, 1979, twenty-one instances were recorded in which students were found in possession of drugs, drug paraphernalia or alcohol, or were attending school under the influence of drugs. Of the twenty-one instances, thirteen occurred within a span of twenty school days just prior to an investigation conducted by administrators of the Highland Town School District. School officials were assisted by local police officers at the junior and senior high school in Highland, Indiana. The inspection included the use of canine units, pocket searches, and strip searches.

The strip searches were the culmination of the general search employing drug-detecting dogs. Teams of police officers, trained dog handlers, and school officials conducted a three-hour inspection of 2,780 junior and senior high school students. The students were confined to their classrooms while the dog teams walked the dogs up and down the rows of desks. The dogs were specially trained to detect drugs and, if one “alerted” on a student, that student was asked to empty his/her pockets and/or purse. As a result of continuing alerts, nine students were strip searched. The strip searches did not result in the discovery of any drugs. It was later determined that the search dog alerted on the plaintiff because she had been playing with her own dog which was in heat. The court held that the pocket searches were valid but that the strip searches were

unsupported by even reasonable suspicion. Concerning the use of canine units, the Federal judge stated,

The health and safety of all students at the two schools was threatened by an increase in drug use. The school's administrators delegated by the state with the duty and responsibility to maintain order, discipline, safety and education within the school system supervised the investigation which was designed with the single purpose of eliminating drug use inside the school buildings. The operation was carried out in an unintrusive manner in each classroom.

Moreover, the procedure of bringing the trained dogs into each classroom was planned so as to cause only a few minutes interruption. All students were treated similarly up until an alert by one of the dogs. No student was treated with any malice nor was the operation planned in a way so as to embarrass any particular student. Weighing the minimal intrusion against the school's need to rid itself of the drug problem, the actions of the school officials leading up to an alert by one of the dogs were reasonable and not a search for purposes of the Fourth Amendment. Until the trained dogs indicated the presence of marijuana, no violation of any basic Fourth Amendment rights occurred.

Of special note was the fact that school officials were not concerned with the discovery of evidence to be used in criminal prosecutions, but rather were concerned with the elimination of drug trafficking within the schools. School officials and police had agreed that no criminal action would occur as a result of evidence recovered during the investigation. School officials did intend to take appropriate disciplinary actions against students found in possession of contraband. In conclusion, the judge found no constitutional fault with the basic plan as executed by school officials and police (*Doe v. Renfrow*, 1979).

In *Interest of L.L.*, 1979, a teacher upon entering a classroom, noticed a student clutching the chest shirt pocket area. Having previously confiscated a knife and razor blades from the same student, the teacher suspected the student to again be in possession of such items. The teacher asked the student to reveal whatever was being concealed. The student clutched the shirt pocket in order to keep the teacher from discovering the contents. After being told by the teacher that no official action would be taken if the contents of the pocket were revealed, the student produced a marijuana cigarette from the pocket. The teacher reported the incident to school officials. The matter, in turn, was referred to the local police department.

At the state trial, a motion to suppress evidence was denied. The student admitted possessing marijuana and a judgment of delinquency was entered. The case was appealed. The judges concluded that the teacher "... had a reasonable belief that an immediate search was necessary" (*Interest of L.L.*, 1979).

The "emergency" exception can be characterized in one of two ways; a search is permitted if: (1) there is probable cause to search coupled with the fact that evidence will be lost if the search is postponed, or (2) if a situation exists where the object of the search is so inherently dangerous that a search must be conducted immediately to avoid injury (Trosch, 1982).

Stern v. New Haven Community Schools, 1981, involved the use of a two-way mirror in the boy's restroom. A student was suspended and reported to the police after being observed buying marijuana. The court balanced the school's and student's interests and concluded that the school's responsibility in maintaining discipline was superior to the student's expectation of privacy (*Stern v. New Haven Community Schools*, 1981).

In *Anable v. Ford*, 1985, the court discussed the evidence required before administering a breathalyzer test. In *Anable*, a school had instituted a drug-testing policy that could require a student suspected of drug use at school to submit to blood, breath, urine, and/or polygraph testing. In upholding the breath test as applied, the court explained that the “mere possession of alcohol would not, of itself, indicate that alcohol is present in the blood or breath,” and neither would the report of a single official that he or she smelled alcohol on a student’s breath. The court found, however, that the breath test administered in that case was justified by reasonable suspicion that the student was intoxicated. First, the principal smelled alcohol on the student’s breath. Second, a teacher reported that the student was disruptive in class. Finally, the principal and two other school officials “carefully” observed the student and concluded that he had been drinking (*Anable v. Ford*, 1985)

In *Martens v. District No. 220*, 1985, the court upheld the search of a student who had been implicated in drug dealing by an anonymous caller. The principal received an anonymous call from a woman who claimed to be the mother of a student who had purchased marijuana cigarettes at school from James Lafollette. She described where drugs were concealed, saying that they could be found that day in a Marlboro box in Lafollette’s locker. A search of the locker produced a Marlboro box with marijuana cigarettes inside. This search was not challenged in court. Later that day, however, the school received a second anonymous call, thought to be from the same source. The caller reported that her daughter had purchased marijuana from Lafollette and Michael Martens. She said that Martens usually concealed the drugs in the lining of his coat and that he

might be carrying drugs that day. Martens was confronted with the allegations and eventually emptied his pockets at the request of a law enforcement official.

The court found that the tip justified the search of Martens. First, the school's general drug problem made the anonymous tip "not inherently implausible." Second, the fact that the tip came from a member of the public rather than from a police informer made it somewhat more credible. Third, the principal believed that the same caller had given the earlier tip on Lafollette: both callers were female; both lived in the same area; both discovered daughters in possession of marijuana; and both refused to disclose their identity. Given the success of the first search, the principal had good reason to trust the new information. Finally, the report was "not a blanket allegation but rather outlined Martens' role as a drug distributor, described where he kept his drug paraphernalia and indicated that Martens had the paraphernalia in his possession that day. The detailed nature of the tip weighs in favor of its accuracy (*Martens v. District No. 220*, 1985).

New Jersey v. T.L.O.

A 1985 court decision involving individualized suspicion searches came from the *New Jersey Supreme Court in New Jersey v. T.L.O.* (1985). The *T.L.O.* case arose when a teacher discovered two female high school students smoking in the bathroom. Because this behavior violated a school rule, both students were taken to the principal's office and questioned by an assistant principal. T.L.O.'s companion admitted to the rule violation, but T.L.O. denied the charge and claimed she did not smoke at all.

The assistant principal then asked T.L.O. to come to his private office and demanded to see her purse. Upon opening the purse, he discovered a pack of cigarettes

on top. As the cigarettes were being removed, the assistant principal also noticed cigarette-rolling papers. Because of his prior experience, he suspected that other evidence of drug use might be found. A thorough search of the purse revealed some marijuana, a pipe, several empty plastic bags, a substantial quantity of one-dollar bills, an index card-listing students who apparently owed T.L.O. money, and two letters implicating T.L.O. in marijuana dealing.

T.L.O.'s mother was then notified and evidence of the drug dealing was turned over to police. Based on the confession and the evidence seized during the search of T.L.O.'s purse, delinquency charges were brought against T.L.O. by the State of New Jersey. During that proceeding, T.L.O. claimed that the search of her purse violated provisions of the Fourth Amendment and she sought to suppress both the evidence seized and her confession.

The Court's main holdings can be summarized as follows:

1. Children in school do have legitimate expectations of privacy which are protected by the Fourth Amendment.
2. Public school officials act as representatives of the government.

Consequently, they must comply with Fourth Amendment restrictions when conducting student searches or seizures. The Court specifically rejected arguments that public school officials are exempt from these restrictions because they act as surrogates for the parents of students rather than as government agents.

3. Public school officials do not need search warrants or probable cause to search or seize evidence from students under their authority.

4. In the absence of warrants and probable cause, the legitimate privacy interests of public school children are protected by requiring that searches and seizures must be “reasonable” under all circumstances. To satisfy this requirement a student search must be:

- a. Justified at its inception. Officials must “reasonable” suspect that evidence indicating that a student has violated or is violating the law or a school rule will be found in a particular place. Such a “reasonable” suspicion requires only sufficient probability, not absolute certainty. The requirement for at least a reasonable suspicion applies to any student search no matter how serious or relatively minor the suspected infraction may be.
- b. Reasonable in scope. Student searches are gauged in relation to the circumstances that originally justified them. Thus, the scope, intensity, and methods of a search as it is actually conducted must be consistent with its original objective and not excessively intrusive in relation to the nature of a suspected infraction or the student’s age and sex (*New Jersey v. T.L.O.*, 1985).

The Supreme Court’s ruling against T.L.O. ratifies the trend among the majority of lower courts around the U.S. But on a matter as sensitive and controversial as school searches, such ratification serves the important purpose of setting the law on a firm, coherent foundation, and establishing a uniform approach for courts and school officials to follow in applying the Fourth Amendment to the school (Sender, 1985).

The Court, in *T.L.O.*, expressly refused to decide four important issues that were not raised by the facts of the case:

1. Whether a student has a reasonable expectation of privacy in “lockers, desks, or other school property provided for the storage of school supplies,” and whether the rules governing searches of these areas are different;
2. What is the “appropriate standard for assessing the legality of searches conducted by school officials in conjunction with or at the behest of law enforcement agencies;”
3. “Whether individualized suspicion is an essential element of the reasonableness standard” required for school searches; and
4. Whether the exclusionary rule is the appropriate remedy for violations of the Fourth Amendment by school officials (Schreck, 1991).

The scope of reasonable searches is bounded by two commands. First, “the measures adopted must be reasonable related to the objectives of the search.” This is primarily a size requirement. Officials may be permitted to look for needles in haystacks, but they cannot search for haystacks under needles. Second, the search cannot be “excessively intrusive in light of the age and sex of the student and the nature of the infraction.” In *T.L.O.*, Justice Stephens concurring in part and dissenting in part, explained that this latter command is “obviously designed to prohibit physically intrusive searches of students by persons of the opposite sex for relatively minor offenses.” Further, courts generally take a dim view of highly intrusive school searches, such as strip searches.

In a pre-*T.L.O.* case, *Doe v. Renfrow*, the court stated:

It does not require a constitutional scholar to conclude that a nude search of a thirteen-year-old child is an invasion of constitutional right of some magnitude. More than that: it is a violation of any known principle of human decency.

This distaste for highly intrusive searches notwithstanding, courts have upheld such searches where (1) the official conducting the search was of the same sex as the student; (2) a witness of the same sex was present during the search; (3) the object of the search would constitute a serious violation of the law or school rules; (4) the level of suspicion was high; and (5) less intrusive measures had either been tried or would clearly have been inadequate. In cases involving nudity, the courts have further emphasized that the officials did not touch the student (Shepard, 1993).

History of Cases Since *T.L.O.*

According to Stefkovich (2003):

There has been a marked increase in the number of school search decisions since the Supreme Court rendered its opinion in *T.L.O.* in 1985. Starting with the first school search and seizure decision in 1966 and proceeding until *T.L.O.* in 1985, there were in all 68 reported court opinions. This number had almost tripled to 173 opinions rendered in the 15 years since *T.L.O.*. Of the decisions handed down after *T.L.O.* ... nearly 75% occurred after 1991. (p. 267)

In *Odenheim v. Carlstadt-East Rutherford Regional School District*, 1985, a New Jersey superior court ruled that mandated urine testing (for drugs and alcohol) of all high school students as part of their annual physical examination was unreasonable and unjustified in light of the small number and percentages of students in the school with drug and alcohol problems (*Odenheim v. Carlstadt-East Rutherford Regional School District*, 1985).

Since the *T.L.O.* decision, courts have consistently applied the reasonable suspicion standard to school searches. In *In re P.E.A.*, 1988, the Colorado Supreme Court upheld a search of a student's car on school premises. Following an unproductive search of P.E.A. and two other individuals suspected of possessing drugs, a school security officer conducted a search of P.E.A.'s car in the school's parking lot. The search turned up a substantial amount of marijuana.

The Colorado Supreme Court applied the *T.L.O.* reasonable suspicion standard and held that the school officials were justified in searching the car and also upheld the scope of the search as "reasonably related to the objectives of the search." Even though the court purported to follow the "justified at its inception" test enunciated in *T.L.O.*, it introduced a "chain of inferences" test. This test would allow any search as long as each inference could be connected to a previous inference, not evidence. While in *T.L.O.* the inferences were strong and limited in number, the inferences in *P.E.A.* were weak and numerous (*People in interest of P.E.A.*, 1988).

Clearly the search of the two individuals in *P.E.A.* would have been upheld under the *T.L.O.* test based on the reasonable suspicion created by the tip. However, the search of P.E.A. could not have been conducted with a reasonable belief that the search would turn up evidence: the school officials were operating throughout the search based on a mere tip, which alone could not justify the extensive scope of the search. P.E.A. was never mentioned in the tip, and his only connection to the situation was that he drove one of the two named individuals to school.

At a minimum, the search should have been discontinued when, after the search of P.E.A., no evidence was found. When the school officials searched the car, they

clearly exceeded the scope of a reasonable search. The Colorado Supreme Court ignored the balancing test in *T.L.O.*, which should be applied to each individual search conducted, not to the entire series of searches as a whole. It evaded the issue of reasonable expectations of privacy by linking the search of the car to the search conducted in the school (Jacobs, 2000).

In *People v. Dukes*, 1992, a New York court held that the search of a public high school student did not violate the Fourth Amendment, even though individualized suspicion was absent. Special police officers from the school safety task force set up metal detector scanning posts one morning in the lobby of the school. The students had been told at the beginning of the year that searches would take place. The Board of Education had adopted guidelines for the searches, with the stated purpose being to prevent weapons from being brought into the school.

The procedure called for hand-held devices to be used, and all students entering the school were to be searched. If, however, the lines became too long, the officers were permitted to limit the search, as long as some random formula (such as searching every third or fourth student) was used. The officers were prohibited from singling out individual students, unless they had reasonable suspicion that a particular student had a weapon. The student and any bags or containers in the student's possession were to be searched. If a bag activated the scanning device, the officer was to request that the student open the bag for a weapon search. If the student's body activated the device, the officer was to request that the student remove any metal objects, and conduct another scan. If the device was set off a second time, the officer was to conduct a pat-down search in a private area. (This pat down could only be done by an officer of the same sex

as the student). Once an object was found which appeared to have activated the device, the search was to end.

Dukes was subjected to the procedure and found to possess a five-inch switchblade. At the student's trial for possession of the weapon, the student moved to have the evidence suppressed, pursuant to the exclusionary rule. The court denied the motion, and held the search to be constitutionally permissible, even though individualized suspicion was lacking.

The court's decision stated that the type of search conducted was an administrative search, and thus individualized suspicion was not a component of the reasonableness factor. An administrative search, absent individualized suspicion, is reasonable where the intrusion involved is minimal compared to the government interest underlying the search.

In a comparison to airport and public building magnetometer searches, the court found the type of search in question to be minimally intrusive, given the obvious state interest in preventing acts of violence, and the compelling need for security in the schools. "Weapons in schools, like terrorist bombings at airports and courthouses, are dangers which demand an appropriate response ... In my opinion the government interest underling this type of search is equal to if not greater than the interest justifying the airport and courthouse searches" (*People v. Dukes*, 1992, 853) Surprisingly, the court did not directly address any of the factors identified in *T.L.O.*, nor was *T.L.O.* cited (*People v. Dukes*, 1992).

In *State of West Virginia ex rel Galford v. Mark Anthony B.*, 1993, the West Virginia State Supreme Court found the strip search (pulling down of pants and opening

underwear) of an eighth grader for \$100 was excessively intrusive and, thus, unreasonable in scope. The court suggested that the search might have been reasonable if it had been for something more dangerous to students, such as drugs or weapons (*State of West Virginia ex rel Galford v. Mark Anthony B.*, 1993).

In *Cornfield v. Consolidated High School District 230*, 1993, the court found that a principal reasonably suspected that a student was concealing drugs in the crotch of his pants, a practice known as “crotching.” The principal’s suspicion was based on tips from several sources: admissions by the student, report from a bus driver, various reports from teachers, and the student’s sneaky behavior on the day of the search. Focusing on the tips, the police reported that they had received information that Cornfield was selling drugs to other students. One student reported that Cornfield had drugs on campus. Another had seen Cornfield smoking marijuana on the school bus. That report was partially corroborated by the bus driver, who recalled smelling marijuana from the area in which Cornfield was sitting (Dise, 1994). The court found that these tips were “at least as reliable as and certainly more cumulative than those in both *Martens* and *Williams*” and held that the defendants had ample reason for suspicion.

The courts seem to say that searches carried out by the administrative officials of the school are reasonable even though they fail to comply with the conditions necessary to make them reasonable in other contexts (*Cornfield v. Consolidated High School District 230*, 1993).

In *In re Isiah B.*, 1993, Wisconsin’s Supreme Court determined that a mass searching of 75 – 100 lockers for guns was legal in that students had been notified beforehand (in the student handbook), that lockers were considered to be school property

and hence might be searched at any time there was reason to believe that guns might be in the lockers and there was the likelihood of imminent danger.

Whether students ought to have right to privacy in their clothing, bodies, or school lockers should be decided upon the basis of considerations more fundamental than the existence or wording of a school regulation (*In re Isiah B.*, 1993). Searches of student lockers raise two fundamental issues: (1) do students enjoy a legitimate privacy interest in their school lockers, entitling them to Fourth Amendment protection? and (2) If students do have legitimate privacy interests in their lockers, what protection does the Fourth Amendment provide?

The law surrounding searches of student lockers remains in flux. Wayne R. LaFare explains that, “after *T.L.O.* it would seem clear that the search of a student’s locker is lawful at least (emphasis in original text) when there exists a reasonable suspicion that evidence of a violation of law or a school rule will be found therein, and the search within the locker is properly limited in scope.” (Shepard, 1993).

In *S.A. v. State*, 1995, school officials searched a student’s locker and book bag. The Indiana Appellate Court determined that student lockers were the property of the school, and therefore students had no reasonable expectation of privacy in either a locker or its contents (*S.A. v. State*, 1995). The court based its decision on Indiana law and a school policy set forth in student handbooks. This makes *S.A.* distinguishable from the pure school property approach in *Overton*, where no school policy was articulated. The court in *S.A.* did not answer whether the holding would differ had there been no such school policy (Jacobs, 2000).

United States v. Lopez, 1995, although technically a case that hinged on interstate commerce issues, carries with it important implications for students' Fourth and Fourteenth Amendment rights. Justice Breyer's dissenting opinion in this case demonstrates the importance of school violence issues in this country. *Lopez* is the only Supreme Court case addressing the issue of guns in school. The case involves a student's challenge of the Gun-Free School Zones Act of 1990.

In March 1992, Alfonso Lopez, Jr., a 12th grade student at Edison High School in San Antonio, Texas, was caught carrying a .38 caliber handgun and several bullets. He was arrested and charged with firearm possession on school grounds under state law. This charge was later dropped, and he was charged by federal officials with violating the Gun-Free School Zones Act of 1990. This Act makes it a federal offense for any individual knowingly to possess a firearm within 1,000 feet of the grounds of any public or private school. The student subsequently challenged this act, ultimately arguing that it is unconstitutional because it exceeded the power of Congress under the "Commerce Clause" of the United States Constitution.

The Court ruled that the Gun-Free School Zones Act exceeded Congress's power under the Commerce Clause. In *Lopez* (1995), the Court identified a test for determining if Congress has authority to regulate certain activities under the Commerce Clause. Specifically, the activity to be regulated must substantially affect interstate commerce. The Court reasoned that, as possession of a gun in a school zone was not an economic activity, the Act exceeded Congressional authority.

In *Lopez* (1995), the Court did not specifically address violence in the schools. However, the dissent by Justice Breyer acknowledges that gun-related violence threatens

classroom learning. He asserted that the detrimental effect of violence in the schools effects interstate and foreign commerce in that schools ultimately prepare students for participation in the workplace. Further, this effect is substantial, and therefore within the realm of Congress to regulate. Although this dissent is not legally binding, it paints a dramatic portrait of the extent that violence can be thought to damage schools and the nation as whole (*United States v. Lopez*, 1995).

Until 1995, the courts were split on drug testing as a precondition for participating in extracurricular activities, with some courts approving it because these activities are voluntary (Student Searches and the Law, 1995). In *Vernonia School District 471 v. Acton*, 1995, the United States Supreme Court upheld the Vernonia School District's policy of random drug testing for those students involved in interscholastic athletics. The district had a history of drug problems among its athletes and had exhausted all other means of addressing this problem.

Less than 15 years after *T.L.O.*, and following several lower courts' rulings on the constitutionality of urinalysis testing, the Supreme Court was once again called upon to address search and seizure issues involving public schools. The Supreme Court granted certiorari to hear *Vernonia School District 47J v. Acton*, a case revolving around random testing of student athletes in a public school, in order to resolve differences between the courts on that and similar issues (Beyer, 1997).

James Acton, a student at Vernonia, challenged the local school board's implementation of a policy that required all student athletes agree to subject themselves to urinalysis testing at the inception of the athletic season and on a random basis throughout the season. The school implemented the testing program after other efforts

failed to curb a “sharp increase in drug use,” which the Vernonia officials believed centered on the athletes themselves. Acton, who wanted to participate in the local athletic program, challenged the policy as a violation of the Fourth and Fourteenth Amendments to the U.S. Constitution and of Article I, Section 9 of the Oregon Constitution. The U.S. Supreme Court, overturning the decision of the 9th Circuit Court of Appeals, ruled that the testing program Vernonia implemented had not abridged Acton’s right to be free of unreasonable searches and seizures as guaranteed by the Fourth Amendment.

The Court determined that two levels of analysis were required by the case Acton presented. It must first determine if urinalysis of students was indeed a search. If so, then a second analysis was required to decide whether such a search was a violation of the Fourth Amendment. Relying on its holding in *Skinner v. Railway Labor Executives’ Association*, the Court found that “state-compelled collection and testing of urine, such as that required by the Student Athlete Drug Policy, constitutes ‘search’.”

Next, the court noted, “the ultimate measure of the constitutionality of a governmental search is ‘reasonableness’.” While the Justices affirmed that reasonableness usually requires law enforcement officials to acquire a warrant prior to carrying out a search, they reiterated their holding from *T.L.O.* that to require warrants for searches conducted by public school officials would undermine their ability to “maintain order in the schools.”

The Court balanced four factors in determining the reasonableness of Vernonia’s program: (1) “the scope of the legitimate expectation of privacy,” (2) “the degree of intrusion,” (3) “the nature and immediacy of the governmental concern at issue,” and (4)

“the efficacy of this means for meeting it.” Although the majority reiterated that students do not “shed their constitutional rights ... at the schoolhouse gate,” they found that student athletes had little legitimate expectation of privacy (*Vernonia School District 47J v. Acton*, 1995).

The United States Supreme Court case of *Vernonia School District 47J v. Acton* is the primary case in the area of administrative searches. All searches that do not have an element of individualized suspicion and involve more than one student, such as metal detector searches or checkpoint searches, should be analyzed under the rationale of *Acton*.

The path created by *T.L.O.*, *Williams*, *Schall*, and *Vernonia* was particularly intrusive upon individual privacy rights. The increasing incidence of drugs, weapons and even explosives entering public schools makes it highly probable that the evolution of search and seizure law will increase as well. It is predictable, for example, that the criteria of a diminished sense of privacy will be tested beyond athletics and cheerleading (Heder, 1999).

In *Thompson v. Carthage School District*, 1996, a federal appeals court in the eighth circuit ruled that a mass metal detector search of all boys, grades 6-12, and subsequent follow-up searches were legal in that there was immediate danger. That morning, a school bus driver reported that the seats in the bus had just been slashed and, upon questioning, students stated that there had been a gun at school that morning (*Thompson v. Carthage School District*, 1996).

DesRoches by DesRoches v. Caprio, 1998 – began when ninth-grader James (“Jim”) DesRoches decided not to consent to a search of his backpack for a pair of

allegedly stolen sneakers. On May 2, 1997, when Jim was a student at Granby High School in Norfolk, Virginia, a scheduling quirk split his art class into two periods, divided by lunch. When the lunch period began, classmate Shamra Hursey left a pair of sneakers on a table in the art room. Jim, Shamra, and most of the students went to lunch. When Shamra returned to the classroom after lunch, her sneakers were missing.

After Shamra – and other students, including Jim, who helped look – could not find the sneakers, Shamra reported the apparent theft to school security official James Lee. Lee talked to the art teacher, who had spent part of the lunch period cutting paper in a classroom closet where she could not see into the classroom, and to a student who had seen the sneakers in the room during lunch. Lee did not ask where individual students had been during lunch, but he was told that the day before, a ring left in the art room had vanished.

Concerned that this was the second theft in two days, Lee decided to conduct a search of all of the students in the art class. He summoned a security officer and asked whether any students objected to having their backpacks searched. When Jim and another student objected, Lee told them a refusal to consent would be punished by a 10-day suspension. When they heard the penalty, the other student relented, but Jim continued to object.

The security officer searched the other students' backpacks without finding the sneakers. Jim was sent to the discipline office, where his parents were called. They supported his refusal to consent to the search and took Jim home to begin serving his suspension. When Principal Michael Caprio was told what had happened, he supported Lee's actions, including the suspension.

Jim and his parents then sued Caprio and the school district in federal district court, charging that the suspension violated Jim's Fourth Amendment right to be free from unreasonable searches and seizures, his First Amendment right to freedom of speech, and his Fourteenth Amendment right to due process. Jim asked for monetary damages and a temporary restraining order that would allow him to return to school. The school district agreed to let Jim return to school pending the outcome of the case, which was heard in an expedited trial with no jury.

In an insightful opinion, Judge Robert G. Doumar ruled in Jim's favor. Doumar decided the need to find stolen sneakers and to identify the thief did not outweigh the students' privacy interests. Unlike drugs or weapons, stolen sneakers do not constitute an emergency or threaten students' safety.

Also, Doumar wrote, school employees had other alternatives: They could easily have delayed the search to gather information that would have narrowed the set of suspects without running the risk that the evidence might be lost or hidden. Employees could have interviewed students to find out which ones might have had the time and opportunity to take the shoes. As Doumar pointed out, if school employees had questioned students, they would have learned that Jim and his backpack had been in the cafeteria and the schoolyard at the time of the theft. And, the judge noted, students other than those enrolled in the art class had been in the art classroom during lunch and, therefore, could have stolen the sneakers.

Doumar acknowledged the seriousness of the theft of a student's property, but he concluded that it was not serious enough to outweigh students' Fourth Amendment rights. As he wrote, a "search of all 19 students in the class, especially when it is not

certain that one of them is guilty, casts too wide a net when the evil combated is petty larceny of an object that could not harm others.”

Doumar stressed one procedural trick school employees cannot use: They cannot first search the consenting students and then declare, if those consensual searches reveal no stolen property, that they have individualized suspicion of the students who did not consent to a search. A nonconsensual search must be justified at its inception, when school employees first decide to search, the judge explained: “One’s constitutional rights cannot wax and wane according to whether others stand upon their constitutional rights. If all students had refused to give consent to be searched, Jim could not have been singled out for a search because no individualized suspicion existed as to him at the inception of the search of the class” (*DesRoches by DesRoches v. Caprio*, 1998).

Konop v. Northwestern School District, 1998, involves a suspicionless strip search of two eighth grade students. Holly Morgan, a student, reported to Mr. Sauerwein, the principal, that \$200 had been taken from her gym locker. Mr. Sauerwein lectured Holly about leaving her locker unlocked. Holly stormed out of his office. A short time later, Holly’s mother contacted Mr. Sauerwein to learn of his intentions, at which point he decided to investigate.

Sauerwein locked the locker room door while the students were at lunch or in class. When lunch was over, the boys were sent to class and the girls were told to stay. The girls in PE were sent to the cafeteria upon returning to the locker room. Sauerwein lectured the girls during which he stated, “he didn’t care if it was legal or not, he was going to search the girls, including a strip search, and find the money.” He told them that

if they find the money, that “person is going out the front door with the Sheriff in hand cuffs” (§ 28).

Sauerwein then instructed the girls to empty their pockets onto the tables for inspection. Konop and Genzler were sitting at the second table. Genzler was described as nervous, shaking, and twiddling her thumbs on the table. Both girls were observed whispering to other girls about the missing money during the pocket search. At the end of the pocket search, all of the girls except Konop and Genzler were allowed to collect their belongings. At this point, no money had been recovered.

Since the pocket search turned up nothing, Ms. Patnode, the band teacher, suggested checking shoes and bras. Sauerwein, acted on this suggestion, and directed Ms. Larson, the business manager, Ms. Young, the administrative assistant, and Ms. Patnode to take the girls in pairs to the bathroom and locker room to check shoes and bras. As part of these directions, Konop and Genzler were to be searched first.

Patnode and Young took Konop and Genzler into the locker room where they were instructed to strip like they were in physical education. Both girls were told to remove their underwear but refused. Patnode instructed the girls to pull their bras away from their body so they could be inspected. Young objected to this treatment claiming that since the girls were wearing sports bras, \$200 would easily be visible from the outside. Patnode continued her search by pulling Genzler’s underwear away from her body in the front and the back. She pulled Konop’s away from her body in the back only and in the process touched Konop. Both girls were humiliated and cried through out the search. No money was recovered. The remainder of the girls were searched, but not required to remove their underwear or have it pulled away from their body.

At the conclusion of the strip search, the PE lockers, book lockers, and cars were searched. No money was ever discovered. Sauerwein never investigated whether \$200 was actually missing. He acted solely on the accusation of a student that \$200 had been stolen. It was later discovered that less than \$60 was missing.

The search as conducted was not justified at its inception. Sauerwein did not have any reasonable cause to believe the plaintiffs stole the missing money. The search as conducted was not “reasonably related in scope to the circumstances which justified the interference in the first place” (*New Jersey v. T.L.O.*, 1985). School officials were not searching for weapons or drugs.

The defendants, once they did not find money in the pockets shoes or socks, did not have reasonable suspicion to search the bras and the failure to find money in the bras certainly did not justify extending the search to the underwear. The court declined to determine as a matter of law that the search was permissible in its scope, reasonably related to the objectives of the search, and not excessively intrusive in light of the age and sex of the students and the nature of the infraction.

The school officials possessed no specific information that any particular student had stolen the money. Sauerwein testified at his deposition that “anyone” could have gone into the unlocked locker room that morning.

The District Court held that:

1. Declaratory relief was appropriate;
2. Students constitutional rights were violated;
3. Students had Fourth Amendment rights at the time of the search;
4. Strip search was not objectively reasonable;

5. Principal and teacher not entitled on summary judgment motion to qualified immunity; and
6. Material issues of fact precluded summary judgment on state law claims (*Konop v. Northwestern School District*, 26 F.Supp.2d 1189 (1998)).

One of the most significant state decisions involving administrative searches came from the Pennsylvania Supreme Court in *Commonwealth v. Cass*, 1998. *Cass* involved a massive drug search of 2,000 student lockers by canine units. The school was confronted with a considerable amount of drug use and sales within the school. The Court correctly followed and applied *Acton* (*Vernonia School District 47J v. Acton*, 1985) to the mass search of student lockers. Applying the *Acton* framework, the Court determined that the students' privacy interest in school lockers was significantly reduced given the presence of a school policy. Next, the Court determined that the canine sniff was not a search under the United States Constitution, and that searching the inside of the lockers was minimally intrusive given the limited expectation of privacy attributed to those lockers. Finally, the Court found that the nature and immediacy element of the *Acton* framework was satisfied given the heightened awareness of drug activity in the school and the generally compelling interest of eliminating drug use in schools. Therefore, the search satisfied the Fourth Amendment requirement of reasonableness (*Commonwealth of Pennsylvania v. Cass*, 1998).

The Pennsylvania Supreme Court then examined the lawfulness of the search under Article 1, Section 8 of the Pennsylvania Constitution. The Court emphasized that the United States Constitution merely sets the minimal search requirements. The Court also determined that state law did not require a different result from the federal analysis.

The *Cass* decision stands as a landmark state appellate decision and indicates a well-established pattern of excellent jurisprudence by Pennsylvania courts in administrative search cases (Jacobs, 2000).

An administrative search is upheld as reasonable when the intrusion involved in the search is no greater than necessary to satisfy the governmental interest underlying the need for the search. In other words, in determining whether the search is reasonable, the courts balance the degree of intrusion, including the discretion given to the person conducting the search, against the severity of the danger imposed.

In 1996, a Florida court went one step further in its interpretation of administrative searches. In this case, a high school with an open campus instituted a policy allowing random searches of students in classrooms with hand-held metal detector wands. An independent security team hired by the school district came into one room to search and observed students passing a jacket to the back of the room. The officers confiscated the jacket and found a gun. A Florida court of appeals ruled that the standard for the search was one of reasonableness and the search was administrative and not a police search requiring probable cause (Stefkovich, 1999).

To summarize, the necessary factors which will lead to judicial approval of an administrative search are:

1. A written school policy that is consistently followed;
2. A search conducted by school officials or police who act only on school authority;
3. A history or recent resurgence of violence in the school that necessitates immediate action by the school;

4. Signs or other forms of notice prior to the search;
5. Procedures allowing students the opportunity to give up contraband before search; and
6. Searches that are not extensive and do not involve body cavity or strip searches.

The metal detector system is probably the most effective and legally sound method. However, installation, administration, and maintenance of detectors can be very expensive, time-consuming, annoying, and not conducive to a positive school image. Randomly administered searches with handheld detectors are a feasible alternative. Evidentiary searches should be considered unconstitutional when performed as administrative searches regardless of the spin that some courts may place on the issue (Jacobs, 2000).

A critical question involves the applicable standard to searches of students when the searches involve law enforcement officials. These searches can be organized into three types:

1. Searches conducted by law enforcement officers at the request of school officials;
2. Searches conducted by school officials at the request of law enforcement officers; and
3. Searches conducted by school officials in the presence of law enforcement officers.

The first question to ask is whether the police were “involved,” meaning what did they actually do. Presence would seem to satisfy this first inquiry if the police were

standing guard or in a position of authority. Second, a court could ask what the apparent purpose of the search was. If the apparent purpose was to further the school's interest in maintaining order and discipline, any evidence acquired pursuant to such conduct should be admissible in any subsequent prosecution. This certainly would be in line with *T.L.O.*, which rests its decision on the strong governmental interest in maintaining order and discipline in schools.

Police officers are available as an instrument to further that interest; however, they are not able to gather incriminating evidence under a lesser standard just because they are in a school. Where the apparent purpose of the search is evidentiary, the court considers the type of proceeding in which the evidence is to be used. If it is a criminal proceeding, the probable cause standard would be applied. If the proceeding is to determine suspension or expulsion, then the evidence would not be excluded so long as school officials would have possessed reasonable suspicion had they conducted the search rather than the police (Jacobs, 2000).

Another issue in individualized suspicion searches concerns school security officers and law enforcement officers assigned to school for safety reasons. A determination as to whether officers are considered police or school officials mandates the standard to be applied under the Fourth Amendment. Generally, police officers assigned to school are held to the same probable cause standard that they are held to on the streets. However, when acting akin to school officials in a security capacity, police and security officers are usually held to the same lowered standard as school officials.

Modern cases do not consider security officers equivalent to law enforcement officials. In *State v. Serna*, 1993, school security officers seized cocaine from a student involved in an altercation off-campus. The court determined that the security officers must be considered state actors because they were employed and acted as agents of the school district. The court extended the school's interest in protecting student safety from on-campus activity to include travel back and forth from school. The court applied the reasonable suspicion standard and held that the search was reasonable (*State v. Serna*, 1993).

A word of caution accompanies the *Serna* case. Courts should be highly skeptical when law enforcement officers are pursuing searches beyond school grounds in the name of school safety. Courts should also recognize that school security guards have no authority to conduct searches outside the jurisdiction of the school grounds unless they are police officers (Jacobs, 2000).

Board of Education of Independent School District No. 92 of Pottawatomie County v. Earls

Thirteen years after the *T.L.O.* decision, Tecumseh School District implemented a drug testing policy within all schools. The policy required all students who participate in any competitive extracurricular activities to submit to a suspicionless random drug test. Extracurricular activities included band, choir, FFA, academic team, etc.

Lindsey Earls was a member of the school choir, marching band, and academic team. Earls, through her parents challenged the constitutionality of the suspicionless drug testing policy. She argued that there was no ample evidence of a drug problem among

the students in the Tecumseh School District and no “special need” to engage in urine testing for drugs. She also argued that students who engage in extracurricular activities tend to be less likely to use drugs than the general student population and that no evidence existed that the students’ privacy expectations diminished when they participated in extracurricular activities.

Earls claimed personal information was carelessly handled and confidentiality was compromised. Her chorus teacher left the prescription drug sheets in places that were easily accessible to others. The District policy required the “medication list be submitted to the lab in a sealed and confidential envelope and shall not be viewed by district employees” (*Board of Education of Independent School District No. 92 of Pottawatomie County v. Earls*, 2002).

The Court analyzed the constitutionality of the suspicionless drug testing policy using *Vernonia* as a basis for their decision. The reasonableness of a search for Fourth Amendment purposes would be determined by “balancing its intrusion on the individual’s Fourth Amendment interests against its promotion of legitimate governmental interests” (*Skinner v. National Railway Executives Assn.*, 489 U.S. 602 (1989)).

The first prong of the balancing test is the nature of privacy interests upon which suspicionless drug testing intrudes. Students who participate in extracurricular activities are subjected to certain rules and regulations – not as stringent as the rules and regulations imposed upon athletes such as routine physical examinations and communal undress as in *Vernonia*. However, the rules and regulations that apply to the students participating in extracurricular activities do not apply to the student body as a whole.

This regulation of extracurricular activities further diminishes the expectation of privacy among school children. The Court therefore concluded that the students affected by this policy have a limited expectation of privacy.

The second prong of the balancing test is the nature of the intrusion by the school pursuant to the testing policy. Under the policy, a faculty monitor waits outside the closed restroom stall for the student to produce a sample and must “listen for the normal sounds of urination in order to guard against tampered specimens and to ensure an accurate chain of custody.” The monitor then pours the sample into two bottles, which are sealed and placed into a mailing pouch along with a consent form signed by the student.

This procedure is virtually identical to that reviewed in *Vernonia*, except that it additionally protects privacy by allowing male students to produce their samples inside a closed stall. Given that the Court considered the method of collection in *Vernonia* a “negligible” intrusion, the method here is even less problematic. Given the minimally intrusive nature of the sample collection and the limited uses to which the test results are put, the Court concluded that the invasion of students’ privacy is not significant.

The third and final prong of the balancing test is the nature and immediacy of the governmental concern. The health and safety risks identified in *Vernonia* apply with equal force to Tecumseh’s children. Earls considered the proffered evidence insufficient and argued that there was no “real and immediate interest” to justify a policy of drug-testing nonathletes. However, the Court has not required a particularized or pervasive drug problem before allowing the government to conduct drug testing when no prior suspicion exists. The Court, therefore concluded that the drug testing of Tecumseh

students who participate in extracurricular activities effectively serves the school district's interest in protecting the safety and health of its students. According to the Court, Tecumseh's policy is a reasonable means of furthering the school district's important interest in preventing and deterring drug use among its school children.

Administrative Knowledge

Prior to the *Brown v. Board of Education* case of 1954, the judicial system had little interaction with public educational systems within the United States. During the past fifty years increasing numbers of cases growing out of educational settings have provided the basis for litigation in both federal and state courts. Fourth Amendment guarantees of freedom from unreasonable searches and seizures have been reflected in court cases involving public schools since approximately 1960.

The Fourth Amendment does not, however, define "unreasonable." Determining whether a litigated search has been reasonable or unreasonable has been the responsibility of the state or federal judges.

Judges have consistently considered several factors in making determinations relative to student search and seizure situations. Factors given consideration have included such matters as: the age of the child, the prevalence and/or seriousness of the problem involved, the exigency of the problem relative to timing of search, the probative value and reliability of information justifying search, as well as the general school and behavioral record of the student involved (Greene, 1980).

In determining reasonableness, the interest of individual members of society in securing personal privacy must be balanced against the collective interest of society in

obtaining the results of a search. See *Figure 1*. The issue of reasonableness must not be decided as a separate matter, apart from other considerations.

Persons conducting student search and seizure operations have been classified as a private person or citizen, a governmental agent, or a governmental law enforcement agent. In some cases, courts have taken the position that school officials, acting alone, are private persons for purposes of the exclusionary rule. In other cases judges have held that a school official, acting alone in conducting a search and seizure, is a governmental agent for purposes of the exclusionary rule. Conflicting judgments have been made as to whether the school official conducting the search should be considered a private citizen or an agent of the government. Generally, school officials, acting alone without assistance of a governmental law enforcement officer, may conduct a search and seizure depending upon the degree of reasonableness inherent in all facets of the operation.

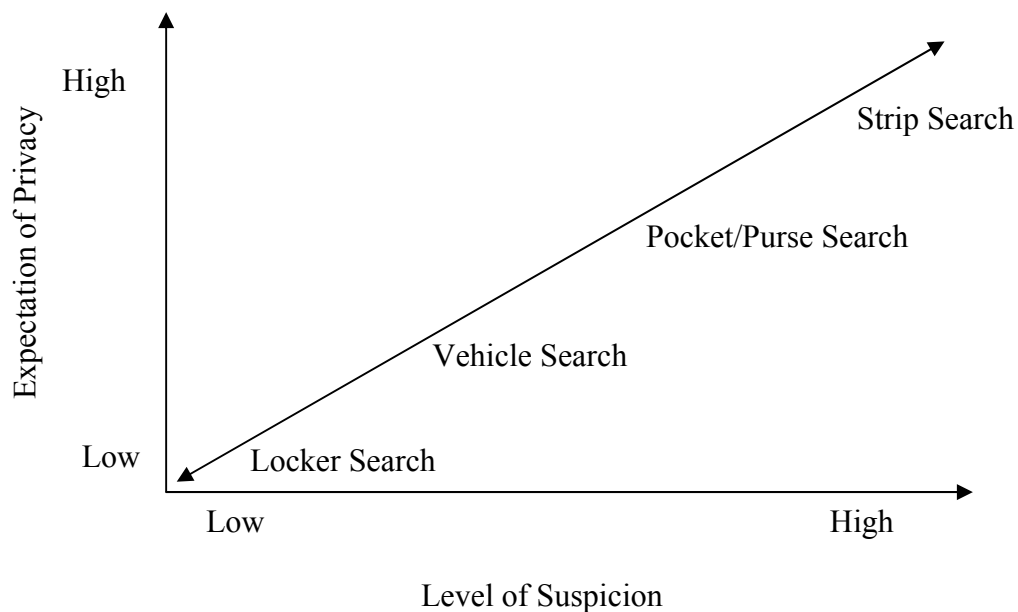


Figure 1. Expectation of Privacy vs. Level of Suspicion

State and federal court judges have held that school officials are accountable for the safety and welfare of each child that comes to school. The *in loco parentis* doctrine maintains that teacher and school officials stand in a similar relationship to the student as do the parents. School personnel are especially responsible for safeguarding the health and general welfare of the students in their school. They are particularly responsible for the educational well being of students and must exercise reasonable disciplinary measures to insure compliance with established rules and procedures. It has been determined that school officials have the right and duty to inspect and search lockers and desks of students provided there is reasonable suspicion that drugs, weapons, dangerous illegal or prohibited matter or stolen goods are likely to be found. In 1982, the court in *Horton v. Goose Creek Independent School District* (690 F.2d 470 (5th Cir. 1982)) stated the dilemma in this way:

When society requires large groups of students, too young to be considered capable of mature restraint in their use of illegal substances or dangerous instrumentalities, it assumes a duty to protect them from dangers posed by anti-social activities – their own and those of other students – and to provide them with an environment in which education is possible. To fulfill that duty, teachers and school administrators must have broad supervisory and disciplinary powers. At the same time we must protect the fourth amendment rights of students.

The answer for school officials, then, is to find the proper balance point between their duty to provide a safe learning environment on one side and the protection afforded students under the fourth amendment on the other (Avery, 1986).

In the school setting, the experts who are believed to have the knowledge to control the students are the administrators (Maxcy, 1991). One then may ask how the administrators determined that there exists a need for searches, including intrusive (strip) searches, and what role, in the overall scheme of education, these searches play. Due to

the increase in the number of suits filed charging violation of Fourth Amendment rights, some school administrators are discouraged from taking the necessary disciplinary action, which includes searching students, despite the need for regulation of student behavior and protection of other students (Greene, 1980).

Harlan and McDowell (1981) argue that school administrators establish policies based on a fear of incidents of crime, rather than on actual occurrence of crime. Further, they state:

The fear of crime may not in fact be based upon an individual's experience as a victim of crime, but rather their vicarious experience of crime through reporting of criminal activity by their relatives, friends, or the news media. Moreover, they have received supplemental inputs to this vicarious experience of crime from contemporary novels, movies, and television. (p. 225)

Salomone (1992), in her impact study on the free speech rights of public school students observed that, "Years after *T.L.O.* (1985) ... do we know, beyond anecdotal evidence and extreme examples, if school administrators are properly searching students?" (p. 103). Students have lost in 79% of the cases litigated since *T.L.O.*. The type of community (rural, urban, or suburban) in which the school district is situated has been shown to make a difference in whether or not the student wins. According to a study completed in 2003 by Stefkovich and Torres,

Students from suburban schools always lost, and their chances were not much better if they lived in large or midsize cities. Students in small towns had a better chance, but still lost more than they won. Students in rural communities had an even chance. It was only in large towns that students were more likely to win their claims. (p. 268-9)

The courts make decisions relative to search and seizure in the school and they leave school authorities with some guidance on this matter. The school authorities must ultimately determine how and when to search. They must also determine whether

searching students contributes to a healthy school climate and promotes student learning. Regardless of the nature of the search and seizure, reasonableness relative to the various factors involved in the situation creates the overall framework within which solution decisions must be made. Reasonableness must be determined by balancing the interest of the individual against the collective interest of the school society (Greene, 1980).

Statistics Related to Search and Seizure Incidences

Drug Related

The use of drugs at school may cause disruptions in the learning environment. The consumption of these substances, such as marijuana, can lead to a school environment that is harmful to students, teachers, and school administrators. In 2001, 24 percent of students in grades 9 through 12 reported using marijuana anywhere during the last 30 days, whereas 5 percent of students reported using marijuana on school property (Table 1). Students in lower grades were less likely than students in higher grades to report using marijuana anywhere (DeVoe, 2002).

The availability of drugs on school property is a disruptive and corrupting influence in the school environment. In 2001, 29 percent of all students in grades 9 through 12 reported that someone had offered, sold, or given them an illegal drug on school property in the 12 months prior to the survey (Table 2). Students' grade level in school does not appear to be associated with whether they had been offered, sold, or given drugs on school property. The percentage of students in each grade level who reported the availability of illegal drugs did not differ.

According to the Florida School Indicators Report (FSIR), there was a six percent (6%) increase overall in alcohol, tobacco, and other drugs reported under incidents of crime and violence from 2003 to 2004. Elementary schools reported an eleven percent (11%) increase, middle schools reported a seven percent (7%) increase, and high school reported a five percent (5%) increase in incidents involving alcohol, tobacco, and other drugs (*Florida School Indicators Report, 2004*).

Table 1

Percentage of Students in Grades 9 Through 12 Who Reported Using Marijuana in the Last 30 Days

Student Characteristics	Anywhere				
	1993	1995	1997	1999	2001
Total	17.7	25.3	26.2	26.7	23.9
Grade					
Ninth	13.2	20.9	23.6	21.7	19.4
Tenth	16.5	25.5	25.0	27.8	24.8
Eleventh	18.4	27.6	29.3	26.7	25.8
Twelfth	22.0	26.2	26.6	31.5	26.9

Note. From DeVoe, J.F., Peter, K., Kaufman, P., Ruddy, S.A., Miller, A.K., Planty, M., Snyder, T.D., Dulhart, D.T., and Rand, M.R. *Indicators of school crime and safety: 2002*. U.S. Departments of Education and Justice. NCES 2003-009/NCJ 196753. Washington, DC: 2002.

Table 2

Percentage of Students in Grades 9 Through 12 Who Reported That Drugs Were Made Available to Them On School Property During the Last 12 Months

Student Characteristics	1993	1995	1997	1999	2001
Total	24.0	32.1	31.7	30.2	28.5
Grade					
Ninth	21.8	31.1	31.4	27.6	29.0
Tenth	23.7	35.0	33.4	32.1	29.0
Eleventh	27.5	32.8	33.2	31.1	28.7
Twelfth	23.0	29.1	29.0	30.5	26.9

Note. From DeVoe, J.F., Peter, K., Kaufman, P., Ruddy, S.A., Miller, A.K., Planty, M., Snyder, T.D., Dulhart, D.T., and Rand, M.R. *Indicators of school crime and safety: 2002*. U.S. Departments of Education and Justice. NCES 2003-009/NCJ 196753. Washington, DC: 2002.

Weapon Related

Every year, some students are threatened or injured with a weapon while they are on school property. The percentages of students victimized in this way provide an important measure of how safe the schools are and how this is changing over time. The percentage of students in grades 9 through 12 who were threatened or injured with a weapon on school property in the 12 months before the survey has fluctuated in recent years, but without a clear trend (Table 3). In all survey years from 1993 to 2001, between 7 and 9 percent of students reported being threatened or injured with a weapon, such as a gun, knife, or club on school property.

According to the FSIR, there was a twenty-eight percent (28%) increase overall in weapons possession from 2003 to 2004. Elementary schools reported a twenty-three percent (23%) increase, middle schools reported a twenty-seven percent (27%) increase, and high schools reported a thirty-three percent (33%) increase in incidents involving weapons possession (*Florida School Indicators Report, 2004*).

Table 3

Percentage of Students in Grades 9 Through 12 Who Reported Being Threatened Or Injured With A Weapon On School Property During The Last 12 Months

Student Characteristics	1993	1995	1997	1999	2001
Total	7.3	8.4	7.4	7.7	8.9
Grade					
Ninth	9.4	9.6	10.1	10.5	12.7
Tenth	7.3	9.6	7.9	8.2	9.1
Eleventh	7.3	7.7	5.9	6.1	6.9
Twelfth	5.5	6.7	5.8	5.1	5.3

Note. From DeVoe, J.F., Peter, K., Kaufman, P., Ruddy, S.A., Miller, A.K., Planty, M., Snyder, T.D., Dulhart, D.T., and Rand, M.R. Indicators of school crime and safety: 2002. U.S. Departments of Education and Justice. NCES 2003-009/NCJ 196753. Washington, DC: 2002.

General Discipline

Data on the prevalence of specific types of crimes add detail to the more general discussion of serious violent and nonviolent crimes. Twelve to 13 percent of all public middle and high schools reported incidents of physical attack or fight with a weapon (Table 4).

Discipline problems in a school may contribute to an overall climate in which violence may occur. Schools that suffer from student drug or alcohol use, physical conflicts, or student disrespect for teachers may be filled with pressures that result in school violence. Reports of disciplinary issues from secondary school principals varied between 1993-94 and 1999-2000. Reports of student drug abuse increased from 30 percent to 39 percent (Table 5).

In the 1996-97 school year, there were over 5,000 student expulsions for possession or use of a firearm (Table 6). An additional 3,300 students were transferred to alternative schools for possession or use of a firearm, while 8,144 were placed in out-of-school suspensions lasting 5 or more days. About 5 percent of all public schools (or 4,170) took one or more of these actions.

Table 4

Percentage of Public Schools That Reported One Or More Incidents Of Physical Attack Or Fight With A Weapon, By Urbanicity And Selected School Characteristics: 1996-97

School Characteristics	Total	City	Urban	Town	Rural
Total	6.0	10.3	6.5	3.0	4.9
Instructional Level					
Elementary	2.3	4.0	2.0	*	3.0
Middle	11.6	21.8	10.7	5.6	11.1
High	12.5	28.0	21.1	8.0	5.7
Region					
Southeast	5.0	12.2	4.4	1.8	3.2

Note. * = No cases reported. From DeVoe, J.F., Peter, K., Kaufman, P., Ruddy, S.A., Miller, A.K., Planty, M., Snyder, T.D., Dulhart, D.T., and Rand, M.R. *Indicators of school crime and safety: 2002*. U.S. Departments of Education and Justice. NCES 2003-009/NCJ 196753. Washington, DC: 2002.

Table 5

Percentage of Public School Principals Who Reported That Selected Discipline Issues Were A Serious Or Moderate Problem In Their School: 1993-94 and 1999-2000

	Elementary Schools			Secondary Schools		
	City	Urban	Rural	City	Urban	Rural
1993-1994						
Alcohol Use	1.5	1.4	5.7	38.8	46.2	55.1
Drug Use	1.9	1.6	2.3	30.8	35.8	27.3
Weapons Possession	2.6	2.1	1.2	14.7	9.9	3.0
1999-2000						
Alcohol Use	0.5	1.3	8.0	36.1	46.6	54.6
Drug Use	1.3	1.4	5.5	36.5	39.4	39.4
Weapons Possession	1.0	0.5	1.0	3.3	1.9	1.6

Note. From DeVoe, J.F., Peter, K., Kaufman, P., Ruddy, S.A., Miller, A.K., Planty, M., Snyder, T.D., Dulhart, D.T., and Rand, M.R. *Indicators of school crime and safety: 2002*. U.S. Departments of Education and Justice. NCES 2003-009/NCJ 196753. Washington, DC: 2002.

Table 6

Number and Percentage Of Schools In Which Specified Disciplinary Actions Were Taken Against Students, Total Number of Actions Taken, and Percentage of Specific Disciplinary Actions Taken Against Students

Infraction	Total number of schools taking one or more of these specified actions	Percent of schools taking one or more of these specified actions	Total number of these specified actions taken	Number of actions taken		
				Expulsions	Transfers to alternative schools or programs	Out-of-School suspensions lasting 5 or more days
Possession or use of firearm	4170	5	16,587	5,143	3,301	8,144
Possession or use of a weapon other than a firearm	16,740	22	58,554	13,698	12,943	31,970
Possession, distribution, or use of alcohol or drugs, including tobacco	20,960	27	170,464	30,522	34,255	105,723
Physical attacks or fights	30,160	39	330,696	50,961	62,108	217,627

Note. From DeVoe, J.F., Peter, K., Kaufman, P., Ruddy, S.A., Miller, A.K., Planty, M., Snyder, T.D., Dulhart, D.T., and Rand, M.R. *Indicators of school crime and safety: 2002*. U.S. Departments of Education and Justice. NCES 2003-009/NCJ 196753. Washington, DC: 2002.

Summary

Student rights protected by the Fourth Amendment, automobile searches, canine searches, drug testing, locker searches, metal detectors, searches of student materials, and strip searches, have all been addressed and standardized by court decision. Since the

T.L.O. decision in 1985, there have been 124 cases related to search and seizure, 97 of which were found in favor of the school system (see Appendix F). The cases since *Vernonia* (1995) have dealt more with a lack of individualized suspicion. As a result of these court decisions, the reasonable suspicion threshold has evolved from a focus on student's rights to a concern for the school's ability to educate and protect.

Schools are faced with more litigation than ever before. From 1985 to 1995, there were 48 cases that addressed student rights protected by the Fourth Amendment. In the majority of these cases, administration based its action on information from informants or eye witnesses. The few cases that involved a random search were found in favor of the student.

From 1985 to 1995, eight cases that dealt with drug testing and sweep searches were decided by the courts. After 1995, the number increased to 22 cases. In all but 3 of these 22 cases which were based on suspicionless searches, the court upheld the reasonableness of the search. To ensure the constitutional rights of students, administrators must determine both the level of reasonableness and the scope of the search at the inception of the search.

T.L.O. was the landmark case that attempted to establish guidelines to assist school administrators in balancing Fourth Amendment issues without demanding an excess of research prior to a search. In this decision, Justice White, delivering the court's majority opinion stated,

By focusing attention on the reasonableness, the standard will spare teachers and school administrators the necessity of schooling themselves in the niceties of probable cause and permit them to regulate their conduct according to the dictates of reason and common sense. (*New Jersey v. T.L.O.*, 1985)

In today's society, where the litigation arena is rapidly expanding, this simple standard is not possible. Legal issues in the area of student rights protected by the Fourth Amendment have expanded since 1985 and will continue to expand. To date the majority of the decisions have sided with the school's point of view. To ensure that this trend continues, administrators must continue to be informed about the law as it relates to student rights.

CHAPTER THREE
METHODOLOGY

Sample and Accessible Population

In order to draw conclusions about Florida administrators' knowledge of search and seizure law, a sample of administrators was drawn from public elementary, middle, and high schools from each county in Florida. In order to ensure a satisfactory return rate, 10% of each county's school-level administrators was used in the questionnaire. Administrators were randomly selected from the sixty-seven counties (Table 7).

Table 7

Number of Public School Administrators by County

	Population	Sample	Elementary	Middle	High	Other
Alachua	71	7	1	3	2	1
Baker	13	3	2	0	1	0
Bay	89	9	3	1	5	0
Bradford	18	18	8	3	4	3
Brevard	240	23	7	5	0	1
Broward	664	60	28	12	16	4
Calhoun	5	5	1	1	1	2
Charlotte	44	7	4	1	1	1
Citrus	58	6	2	2	1	1
Clay	91	8	4	1	3	0
Collier	124	11	3	5	2	1
Dade	1029	102	52	18	22	10
Columbia	24	3	1	1	1	0
Desoto	14	6	3	1	2	0
Duval	371	36	8	17	9	1
Dixie	7	3	1	1	1	0
Escambia	103	10	4	3	3	0
Flagler	31	4	1	2	1	0
Franklin	4	4	2	0	1	1
Gadsden	24	3	1	1	1	0
Gilchrist	10	4	2	0	2	0
Glades	4	4	2	1	1	0
Gulf	7	3	1	1	1	0

Hamilton	7	3	2	0	1	0
Hardee	14	4	2	1	1	0
Hendry	21	3	1	1	1	0
Hernando	52	5	2	2	1	0
Highlands	36	4	2	1	1	0
Hillsborough	512	50	23	13	12	2
Holmes	15	5	1	1	2	1
Indian River	43	6	3	1	1	1
Jackson	25	4	1	1	0	2
Jefferson	7	3	1	1	1	0
Lafayette	3	3	1	0	2	0
Lake	116	11	5	3	3	0
Lee	203	20	5	8	5	2
Leon	108	11	6	3	1	1
Levy	21	3	1	2	0	0
Liberty	4	4	2	0	1	1
Madison	13	3	1	1	1	0
Manatee	168	16	6	3	4	3
Marion	144	15	7	3	2	3
Martin	48	5	2	1	2	0
Monroe	34	4	2	2	0	0
Nassau	26	4	1	1	2	0
Okaloosa	80	8	1	2	3	2
Okeechobee	24	3	1	1	1	0
Orange	437	43	19	9	12	3
Osceola	102	11	2	4	4	1
Palm Beach	520	52	20	13	17	2
Pasco	160	16	7	4	3	2
Pinellas	358	36	15	10	9	2
Polk	276	27	13	7	3	1
Putnam	41	4	1	1	2	0
St. Johns	66	8	4	3	1	0
St. Lucie	60	8	5	1	2	0
Santarosa	63	6	2	2	2	0
Sarasota	60	8	4	1	2	1
Seminole	183	18	7	6	5	0
Sumter	20	6	2	2	2	0
Suwannee	19	4	1	1	1	1
Taylor	13	4	2	1	1	0
Union	7	3	1	1	1	0
Volusia	192	19	8	6	5	0
Wakulla	15	4	1	1	1	1
Walton	24	4	1	1	1	1

Washington	16	7	2	2	2	1
Totals	7401	810	337	208	205	60

Instrument Development

Design of Instrument

A review of related studies yielded no appropriate questionnaire instrument for use in this study. Therefore, an instrument was developed and steps were taken to ensure the content validity for the purpose of this study. To ensure content validity, this researcher developed questionnaire items with the assistance of educational professionals familiar with search and seizure law in Florida. Course syllabi for School Law courses were obtained from several colleges and universities within the State of Florida and elsewhere to determine what textbook was used most often. Copies of the syllabi obtained can be found in Appendix E. The textbook used to teach the majority of the courses was American Public School Law as indicated in Table 8. Items were developed for this questionnaire based on the cases covered in that textbook to protect item validity. Each question contained in the questionnaire was developed from a case discussed in the chapter on student rights related to search and seizure in American Public School Law. Questionnaire items addressed key areas of search and seizure law facing Florida public school administrators at all levels of instruction. Areas of specific concern addressed included locker searches, vehicle searches, strip searches, searches by canines, searches using metal detectors, drug testing, and reasonable suspicion.

Respondent ratings of search and seizure questions obtained from the questionnaire were judged to be fairly reliable for the administrators to whom it was

given, with a reliability coefficient of .6126. A review of the corrected item-total correlations suggested that question #8 did not correlate with the corrected total very well. Its elimination was warranted on the basis that reducing the scale to only relevant items would make for a better more parsimonious scale. If question #8 were removed the reliability coefficient would result in a possible increase to .6564. Respondent ratings would remain fairly reliable as a result. Question #8 was not removed because the increase in the reliability coefficient was not sufficient enough to warrant losing the content contributed by that item.

Table 8

Textbook Used for Various School Law Courses

College/University	Textbook Used	# of Classes Dedicated to Student Rights
University of South Florida	<i>American Public School Law, 6th ed</i>	1
Florida Atlantic University	<i>American Public School Law, 4th ed</i>	2
University of Florida	<i>American Public School Law, 5th ed</i>	1
University of Central Florida	<i>American Public School Law, 5th ed</i>	1
Wayne State College	<i>Law & Ed: Contemporary Issues and Court Decisions, 5th ed</i>	1-3
Murray State	<i>American Public School Law, 4th ed</i>	1
Shippensburg University	<i>American Public School Law, 4th ed</i>	1-2

The final form of the questionnaire was divided into two sections: Part I consisted of multiple choice questions about the respondent's knowledge of legal issues

and practices related to student search and seizure. Part II consisted of questions regarding the respondent's background, training, and school demographics.

Table of Specifications

Two to six questions were written for each category in order to obtain a reliable sampling of the respondent's knowledge of search and seizure law in Florida. The questionnaire included open-ended items in which respondents listed any additional competencies or concerns they believed were of importance (Table 9).

Table 9

Table of Specifications

Content	Question #	Frequency	Related Cases from Textbook
Reasonable Suspicion	1	5	<i>DesRoches by DesRoches v. Caprio</i> , 1998
	2		<i>New Jersey v. T.L.O.</i> , 1985
	3		<i>Coffman v. State</i> , 1989
	4		<i>Desilets v. Clearview Regional Board of Education</i> , 1993
	18		<i>Bellnier v. Lund</i> , 1977
Canine Searches	6	2	<i>Doe v. Renfrow</i> , 1981
	7		<i>Commonwealth of Pennsylvania v. Cass</i> , 1998
Metal Detectors/ Weapons	8	2	<i>People v. Pruitt</i> , 1996
	9		<i>People v. Dukes</i> , 1992
Drugs/ Drug Testing	5	4	<i>State v. Drake</i> , 1995
	10		<i>Vernonia School District 47J v. Acton</i> , 1995
	11		<i>Willis v. Anderson Community School Coproration</i> , 1998
	12		<i>Earls v. Board of Education</i> , 2001

Lockers/Cars	14	4	<i>R.D.L. v. State</i> , 1986
	15		<i>State v. Slattery</i> , 1990
	16		<i>Shamberg v. State</i> , 1988
	17		<i>Isiah B. v. State of Wisconsin</i> , 1993
Strip Searches	13	6	<i>Williams by Williams v Ellington</i> , 1991
	19		<i>Cales v. Howell Public Schools</i> , 1985
	20		<i>Oliver v. McClung</i> , 1995
	21		<i>Doe v. Renfrow</i> , 1981
	22		<i>Cornfield v. Consolidated High School District No. 230</i> , 1993
	23		<i>State of West Virginia ex rel Gilford v. Mark Anthony B.</i> , 1993

Piloting

Ten future administrators were selected for the questionnaire pilot. The questionnaire was emailed to the pilot group. All items were included in the pilot questionnaire. However, the pilot questionnaire did not provide answers to the questionnaire items. The pilot questionnaire provided explicit directions for completing the questionnaire and requested the respondent to provide any comments or suggestions for improving the questionnaire specifically with regard to the clarity of each item.

Data Collection Procedures

The questionnaires were sent to a proportional stratified sample of elementary, middle, and high school administrators in Florida public schools. The sample consisted of 337 elementary administrators, 208 middle school administrators, 205 high school administrators, and 60 other (includes multi-level schools, alternative schools, etc.) public school administrators. The questionnaires were sent via email to 65 of the 67 Florida

counties. Questionnaires were mailed with a stamped, self-addressed return envelope to administrators in Bradford and Lafayette counties.

The week following the due date, follow-up emails and mailings were sent with another copy of the questionnaire to those who did not respond initially. Follow-up mailings or phone calls were made to increase the response rate as necessary. All subjects were assured of confidentiality of responses. Participants in the pilot study were not included in the final questionnaire results.

Data Analysis

Research Question 1: What is the level of Florida public school administrators' knowledge regarding search and seizure?

The total score for each questionnaire was determined by giving each correct answer a score of 1 and each incorrect answer a score of 0. The scores were tallied to determine the total score. This total score represented the administrator's knowledge.

Research Question 2: What is the correlation, if any, between level of Florida public school administrators' knowledge regarding search and seizure and the number of years in administration?

The shape of the distribution was considered for both variables. Both of the variables, Experience (skewness = 1.585, standard error = .206) and Score (skewness = -.784, standard error = .206), exhibited a distribution that was not normal. Experience had a distribution with a significant positive skewness, and Score had a distribution with a significant negative skewness. As a rough guide, a skewness value more than twice its standard error is taken to indicate departure from symmetry (SPSS, 2003). As a result the

Spearman Correlation Coefficient was used to determine if a correlation existed between the number of years of experience and the administrator’s knowledge of search and seizure. Table 10 reflects the statistical analysis of the distribution for these variables.

Table 10

Asymmetry of a Distribution for Experience and Score

		Experience	Score
N	Valid	139	139
	Missing	0	0
Mean		9.51	14.06
Median		6.00	14.00
Mode		2	13
Std. Deviation		8.377	3.082
Skewness		1.585	-.784
Std. Error of Skewness		.206	.206
Kurtosis		2.581	2.533
Std. Error of Kurtosis		.408	.408

Research Question 3: What is the difference, if any, in the knowledge of public elementary, middle, and high school administrators in Florida concerning search and seizure issues?

The questionnaire responses were sub-grouped by level of school: elementary, middle, or high. Then the total scores were analyzed using a One Way Analysis of Variance (ANOVA) to determine if there is a difference in the mean total scores between elementary, middle, and high school administrators.

Research Question 4: What is the difference, if any, in the knowledge of public rural, urban, and suburban school administrators in Florida concerning search and seizure?

The questionnaire responses were sub-grouped by type of metropolitan statistical area: rural, urban, or suburban. Then the total scores were analyzed using ANOVA to determine if there is a difference in the mean total scores between rural, urban, and suburban school administrators.

Ethical Guidelines

This questionnaire ensured strict confidentiality of all participants with respect to their responses and associated school division. The names of the subjects were removed prior to formal data collection and replaced by individual codes to maintain the privacy of all participants. Once research data was collected, appropriate safeguards were employed to ensure that only the researcher and her professional advisors had access to the data. At the conclusion of this study, a copy of the questionnaire results was sent to those participants who requested one at the beginning of the study.

CHAPTER FOUR RESULTS

This chapter presents the analysis of the research data for the study and is organized as follows: (a) overview of the study, (b) demographics information relative to respondents, and (c) findings of the research questions and hypotheses.

Overview of the Study

This study was designed with three major purposes: (a) the extent of administrative knowledge of search and seizure laws/procedures based on the number of years of experience in educational administration; (b) the extent of administrative knowledge related to the level of school; and (c) the extent of administrative knowledge based on the demographic composite of the school.

Research Questions

1. What is the level of Florida public school administrators' knowledge regarding search and seizure law?
2. What is the correlation, if any, between level of Florida public school administrators' knowledge regarding search and seizure and the number of years in administration?
3. What is the difference, if any, in the knowledge of public elementary, middle, and high school administrators in Florida concerning search and seizure issues?

4. What is the difference, if any, in the knowledge of public rural, urban, and suburban school administrators in Florida concerning search and seizure issues?

Survey Response Rate

The final questionnaire was emailed to a random sampling of 810 Florida public school administrators ($N=810$). The 810 included 337 elementary administrators, 208 middle school administrators, 205 high school administrators, and 60 other (includes multi-level schools, alternative schools, etc) public school administrators. The overall return rate of usable questionnaires for all respondents was 17% ($N=139$). Forty-three elementary, forty-four middle, forty high, and eleven other public school administrators' questionnaires were usable out of a total return of 187 questionnaires. The return rate of each level was 13% for elementary, 21% for middle school, 20% for high school, and 18% for other. Table 11 shows the frequency distribution of the final sample for school level. Since forty-eight respondents failed to answer any questions, their questionnaires could not be used for the tests of the hypotheses, and the analyses of demographic variables.

Table 11

<i>Comparison of School Level in Original Sample and Responding Sample</i>				
School Level	Original Sample		Responding Sample	
Elementary School	337	(42%)	43	(23%)
Middle School	208	(26%)	44	(24%)
High School	205	(25%)	40	(21%)
Other Schools	60	(7%)	11	(6%)
Missing Cases			48	(26%)
Total	810	(100%)	187	(100%)

Demographics

The demographic data obtained from Part 2 of the questionnaire provided frequency patterns which are summarized in Tables 12-16.

Table 12

Years of Experience in School Administration

Experience	Frequency	Percent
0 to 5 years	59	42.4
6 to 10 years	35	25.2
11 to 15 years	19	13.7
16 to 20 years	12	8.6
21 or more years	13	9.4
Missing Data	1	0.7
Total	139	100.0

Table 13

Building Level of Respondents

Level	Frequency	Percent
Elementary	43	30.9
Middle	44	31.7
High	40	28.8
Other	11	7.9
Missing Data	1	0.7
Total	139	100.0

Table 14

Metropolitan Statistical Area of Respondent's School

	Frequency	Percent
Rural	55	39.6
Urban	42	30.2
Suburban	42	30.2
Total	139	100.0

Table 15

Number of Respondents by County

County	Sample Size	Frequency	Percent
Alachua	7	1	0.7
Bay	9	2	1.4
Bradford	18	4	2.9
Brevard	23	9	6.5
Broward	60	6	4.3
Citrus	6	1	0.7
Clay	8	1	0.7
Collier	11	2	1.4
Columbia	3	1	0.7
Dade	102	5	3.6
Dixie	3	2	1.4
Duval	36	7	5.0
Flagler	4	3	2.2
Franklin	4	1	0.7
Glades	4	1	0.7
Hamilton	3	1	0.7
Hardee	4	1	0.7
Hernando	5	1	0.7
Highlands	4	1	0.7
Hillsborough	50	6	4.3
Holmes	5	1	0.7
Indian River	6	2	1.4
Jefferson	3	1	0.7
Lafayette	3	1	0.7
Lake	20	20	14.4
Lee	20	5	3.6
Liberty	4	1	0.7
Madison	3	1	0.7
Manatee	16	2	1.4
Marion	15	1	0.7
Martin	5	1	0.7
Nassau	4	1	0.7
Okaloosa	8	2	1.4
Orange	43	7	5.0
Palm Beach	52	2	1.4
Pasco	16	3	2.2
Pinellas	36	4	2.9
Polk	27	10	7.2
Seminole	18	4	2.9
St. Lucie	8	1	0.7
Suwannee	4	1	0.7
Union	3	1	0.7

Volusia	19	3	2.2
Wakulla	4	1	0.7
Washington	7	1	0.7
Missing Data		6	4.3
Total	713	139	100.0

Table 16

Year Respondent was Employed as an Administrator

	Frequency	Percent
Prior to 1985	12	8.7
1985 or Later	126	91.3
Missing Data	1	0.7
Total	139	100.0

Findings of the Research Questions

Research Question 1: What is the level of Florida public school administrators' knowledge regarding search and seizure?

Correct scores ranged from 0 to 20, with a median score of 14. Only one respondent achieved the low score of 0. No respondent achieved a maximum score of 23. Table 16 details all respondents' scores. The mean score was equivalent to 61% of the total questions. To obtain an average score (mean) or better, a respondent correctly answered 61% or more of the 23 questions. However, more than one-third (44%) of the 139 respondents achieved scores beneath the mean, which suggests that the overall level of knowledge of Florida public school administrators regarding search and seizure issues is lower than it should be. Data analysis confirmed the mean to be 14.06, with a standard deviation of 3.082. The skewness and kurtosis indicated a distribution of scores skewed to the left as shown in *Figure 2*.

Table 17

Frequency of Respondents' Scores

Score	Frequency	Percent
0	1	0.7
5	1	0.7
7	1	0.7
8	2	1.4
9	4	2.9
10	4	2.9
11	8	5.8
12	14	10.1
13	26	18.7
14	20	14.4
15	14	10.1
16	10	7.2
17	17	12.2
18	9	6.5
19	4	2.9
20	4	2.9

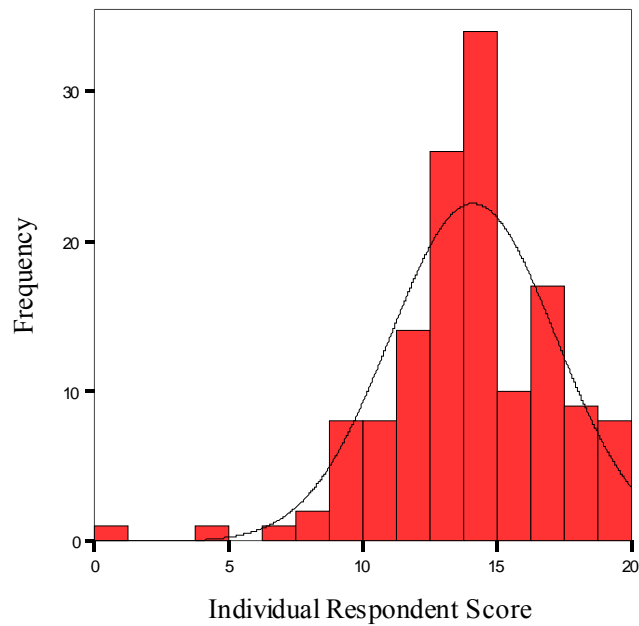


Figure 2. Distribution of Individual Respondents' Scores

Research Question 2: What is the correlation, if any, between level of Florida public school administrators' knowledge regarding search and seizure and the number of years in administration?

A Spearman *rho* correlation coefficient was calculated for the relationship between respondents' years of experience and total score on the questionnaire. A weak positive correlation was found ($rho(137) = .216, p < .05$), indicating a significant relationship between the two variables. The longevity of an administrator's service was correlated to the total score of the questionnaire. Table 18 reflects the Spearman correlation coefficient analysis as described.

Table 18

Spearman Correlation Coefficient for Years of Experience and Total Score

		Experience	Score
Spearman's <i>Rho</i>	Experience	Correlation Coefficient	1.000
		Sig. (2 tailed)	.
		<i>N</i>	139
	Score	Correlation Coefficient	.211
		Sig. (2 tailed)	.013
		<i>N</i>	139

Research Question 3: What is the difference, if any, in the knowledge of public elementary, middle, and high school administrators in Florida concerning search and seizure issues?

A one-way ANOVA, using the dependent variable of score and the independent factor of school level, showed no significant differences ($p = .223$) among groups. In examining the means for each group (elementary=13.35, middle=14.27, high school=14.68, and other schools=13.55), all four group means were so close that no

significant differences existed. Table 19 reflects the one-way Analysis of Variance as described.

Table 19

Analysis of Variance of Score by School Level

Variable: Individual Respondent's Score on Questionnaire
By: Respondent's School Level

Source	Sum of Squares	df	Mean Square	F	Sig.
Between Groups	41.742	3	13.914	1.480	.223
Within Groups	1259.997	134	9.403		
Total	1301.739	137			

Research Question 4: What is the difference, if any in the knowledge of public rural, urban, and suburban school administrators in Florida concerning search and seizure?

A one-way ANOVA, using the dependent variable of score and the independent factor of metropolitan statistical area, showed no significant differences ($p=.466$) among groups. In examining the means for each group (rural=14.16, urban=14.40, and suburban=13.60), all three group means were so close that no significant differences existed. Table 20 reflects the one-way Analysis of Variance as described.

Table 20

Analysis of Variance of Score by Metropolitan Statistical Area

Variable: Individual Respondent's Score on Questionnaire
By: Respondent's Metropolitan Statistical Area

Source	Sum of Squares	df	Mean Square	F	Sig.
Between Groups	14.652	2	7.326	.769	.466
Within Groups	1295.765	136	9.528		
Total	1310.417	138			

Additional Questions Posed

Upon the conclusion of this formal study, several additional questions emerge. The first question sought to determine with what topics within this study the respondents were the most knowledgeable and the least knowledgeable. Table 21 details the frequency of correct responses by respondents for all surveyed questions. It is important to note that respondents, on some occasions, failed to answer certain survey questions. In such cases, all missing responses were coded as don't know answers. As a result, 2 missing responses were counted as don't know answers.

Table 21 provides an overview, in percentage format, of how respondents answered all 23 questions. Correct responses ranged from 97.1% on question #20, to a low of 3.6% on questions #13. Question #20 highlighted the need for administrators to know that they could not conduct a strip search of a class of seventh grade girls to recover four dollars and fifty cents. Here, 135 out of 139 respondents knew the correct answer, which reflected a high degree of understanding by almost all respondents surveyed on this aspect of school law related to search and seizure issues. By comparison, question #13 sought to determine if administrators knew when they could conduct a strip search of a student. According to *Williams by Williams v. Ellington* (1991), a student may be subjected to a warrantless strip search by school officials following a confidential tip by a fellow student that the student was using drugs and parents had expressed a concern about drugs. In 14 out of 23 survey questions, the majority of respondents supported the correct answer choice.

Table 21

Percentage of Correct Responses by Item

Item	Yes	No	Don't Know
1	37.4*	56.8	5.0
2	84.9*	6.5	8.6
3	69.8*	25.2	5.0
4	41.0*	35.3	23.0
5	82.7*	12.2	5.0
6	45.3*	38.8	15.8
7	88.5*	4.3	7.2
8	27.3*	65.5	7.2
9	54.7*	20.1	25.2
10	43.9*	32.4	23.7
11	3.6	75.5*	20.9
12	38.1*	36.0	25.9
13	3.6*	87.1	9.4
14	95.7*	2.2	2.2
15	42.4*	47.5	10.1
16	77.0*	14.4	8.6
17	67.6*	21.6	10.8
18	25.9	65.5*	8.6
19	0.0	92.1*	7.9
20	0.0	97.1*	2.9
21	8.6	77.0*	14.4
22	16.5*	61.9	21.6
23	3.6	82.7*	13.7

Note: Correct answer choice = *.

Table 22 provides an analysis of correct responses by topic in percentage format.

The analysis of data summarized and presented in table 20 shows that public school administrators were least knowledgeable (41%) in the area of “Metal Detectors/Weapons.” Other deficient areas were “Reasonable Suspicion” (60%), “Drugs/Drug Testing” (60%), and “Strip Searches” (62%). Out of six major topics on search and seizure issues, public school administrators showed a lack of knowledge in

four. Areas reflecting appropriate knowledge were “Canine Searches” (67%), and “Lockers/Cars” (71%).

Table 22

Percentage of Correct Answers by Topic

Questionnaire Topic	Percentage Correct	Percentage Incorrect	Percentage Don't Know
Reasonable Suspicion	60	30	10
Canine Searches	67	22	11
Metal Detectors/Weapons	41	43	16
Drugs/Drug Testing	60	21	19
Lockers/Cars	71	21	8
Strip Searches	62	27	11
	N=139	N=139	N=139

The second question sought to determine what the difference was, if any, in the knowledge concerning search and seizure issues of public school administrators in Florida who were employed prior to *T.L.O.* and those who were employed after *T.L.O.*. A one-way ANOVA, using the dependent variable of score and the independent factor of year employed as administrator, showed no significant differences ($p=.153$) among groups. In examining the means for each group (prior to *T.L.O.*=15.23, after *T.L.O.*=13.94), both means were so close that no significant differences existed. Table 23 reflects the one-way Analysis of Variance as described.

Table 23

Analysis of Variance of Score by Date of Employment

Variable: Individual Respondent's Score on Questionnaire

By: Respondent's Date of Employment

Source	Sum of Squares	<i>df</i>	Mean Square	<i>F</i>	Sig.
Between Groups	19.498	1	19.498	2.069	.153
Within Groups	1290.919	137	9.423		
Total	1310.417	138			

CHAPTER FIVE SUMMARY, CONCLUSIONS, RECOMMENDATIONS, AND IMPLICATIONS

This chapter provides a summary and discussion of the major findings of the study. Implications for future research are also provided.

Summary of Findings

Student rights protected by the Fourth Amendment, automobile searches, canine searches, drug testing, locker searches, metal detectors, searches of student materials, and strip searches, have all been addressed and standardized by court decision. Since the *T.L.O.* decision in 1985, there have been 124 cases related to search and seizure, 97 of which were found in favor of the school system (see Appendix F). The cases since *Vernonia* (1995) have dealt more with a lack of individualized suspicion. As a result of these court decisions, the reasonable suspicion threshold has evolved from a focus on student's rights to a concern for the school's ability to educate and protect.

Schools are faced with more litigation than ever before. From 1985 to 1995, there were 48 cases that addressed student rights protected by the Fourth Amendment. In the majority of these cases, administration based its action on information from informants or eye witnesses. The few cases that involved a random search were found in favor of the student.

From 1985 to 1995, eight cases that dealt with drug testing and sweep searches were decided by the courts. After 1995, the number increased to 22 cases. In all but 3 of these 22 cases which were based on suspicionless searches, the court upheld the reasonableness of the search. To ensure the constitutional rights of students,

administrators must determine both the level of reasonableness and the scope of the search at the inception of the search.

T.L.O. was the landmark case that attempted to establish guidelines to assist school administrators in balancing Fourth Amendment issues without demanding an excess of research prior to a search. In this decision, Justice White, delivering the court's majority opinion stated,

By focusing attention on the reasonableness, the standard will spare teachers and school administrators the necessity of schooling themselves in the niceties of probable cause and permit them to regulate their conduct according to the dictates of reason and common sense. (*New Jersey v. T.L.O.*, 1985)

In today's society, where the litigation arena is rapidly expanding, this simple standard is not possible. Legal issues in the area of student rights protected by the Fourth Amendment have expanded since 1985 and will continue to expand. To date the majority of the decisions have sided with the school's point of view. To ensure that this trend continues, administrators must continue to be informed about the law as it relates to student rights.

Limitations

The conclusions, discussion, interpretations, and recommendations rising from this study should be considered in light of the following limitations:

1. This study was limited to the knowledge base of school administrators in the areas of search and seizure issues specifically addressed by the questionnaire.
2. The conclusions and implications of this study were limited to search and seizure issues addressed by relevant case law. School board policy, school

district practice, legislation, and case law in other states may be relevant to search and seizure issues and practices discussed in this study, but are beyond the purview of the study.

3. The method of data collection was based on the assumption that respondents answered the questionnaire truthfully. A further assumption was that the information provided was accurate based on the respondents' knowledge and that the intended respondent completed the questionnaire.
4. If a respondent failed to answer a particular question, the question was counted as "don't know".
5. The sample size for each of the levels (elementary, middle, high, and other) was small. The return rate for each level was 13% (elementary), 21% (middle), 20% (high), and 18% (other). The overall survey return rate was 17%.

Conclusions

In light of these limitations, the conclusions drawn from this study were as follows:

1. Research question #1 assessed the level of Florida public school administrators' knowledge regarding search and seizure issues. Of 23 questions, the mean score was 14.06. Scores ranged from a low of 0 to 20, with no respondent achieving all 23 correct responses. The mean score (14.06) equaled 61% of the total questions (23).

2. Research question #2 determined if there was a correlation between the level of knowledge and the number of years in administration. A weak positive correlation was found ($\rho(137) = .216, p < .05$), indicating a significant relationship between the two variables. In summary, the longevity of service as an administrator had a direct impact on the total score of the questionnaire.
3. Research question #3 assessed whether or not Florida public school administrators significantly differed by organizational level in their knowledge of law related to search and seizure issues. A one-way ANOVA, using the dependent variable of total score and the independent factor of school level, showed no significant difference ($p = .223$) among groups. In summary, the analysis of data indicated that Florida public school administrators, in their knowledge of law relating to search and seizure issues, did not differ significantly according to their assigned organizational level.
4. Research question #4 assessed Florida public school administrators significantly differed by metropolitan statistical area in their knowledge of law related to search and seizure issues. A one-way ANOVA, using the dependent variable of total score and the independent factor of metropolitan statistical area, showed no significant difference ($p = .466$) among groups. In summary, the analysis of data indicated that Florida public school administrators, in their knowledge of law relating to search and seizure issues, did not differ significantly according to their metropolitan statistical area.

Discussion

The purpose of this study was to determine the level of Florida public school administrator's knowledge regarding search and seizure and if there was a correlation between the level of knowledge and the number of years in administration. Prior to this study, there had been little research on this topic nationally, and no research on this subject applicable solely to Florida public schools.

Over the past 25 years, several prominent educators have written on the subject of search and seizure issues. Three educators, Bagby (1976), Clark (1990) and Johnson (1985), have discussed search and seizure law as it applies to student rights. Research by Dunaway (1985) and Greene (1980) has focused on an analysis of the subject. Others, such as Brooks (1987), Fon (1985), Gettings (1987), and Watson (1990), have explored its legal implications and related issues for public schools.

In 1997, Bull studied the comfort level of high school administrators with respect to the law of safe schools. This University of Northern Colorado study found that high school principals reported a relatively high level of comfort in search and seizure law when having to articulate a decision if challenged. The two exceptions were in the areas of sniff dogs and urine testing to discover drug use. Although comfort level does not equate to professional competence, Bull's study suggests that the use of sniff dogs and drug testing are areas of continued uncertainty for school administrators.

In 1999, a study was undertaken to survey the knowledge of Virginia principals regarding search and seizure law (Kalafatis, 1999). Kalafatis' study revealed serious deficiencies in principals' knowledge in a number of areas of search and seizure: searches using metal detectors, drug testing, vehicle searches, general questions, school

security officers, police officers, and sniff dogs. The survey questionnaire contained a total of 40 questions. Of the 246 principals surveyed, 91 responded (37%). The individual scores for each question highlighted the need for school administrators to gain additional competence in the area of school law related to search and seizure issues.

With the continued increase in the number of weapons brought onto school grounds, the continued use of drugs by students, and today's violent society, it is vital that school administrators are competent in their knowledge of the law related to search and seizure issues. All administrators are faced with these issues regardless of organizational level or metropolitan statistical area. Middle and high school administrators encounter these situations more frequently than their elementary counterparts, but all administrators should have a working knowledge of proper procedures.

There is no question that young people today behave differently than in past generations. Changes in society along with changes in personal values and perspectives mean that elementary administrators can no longer dismiss the idea that a child may bring weapons or drugs into the schools. The sensible school administrator should be knowledgeable in all areas of the law related to search and seizure issues in order to avoid costly litigation and unnecessary expense. It is also important for teachers to have a thorough understanding of the law with respect to searched in order to make appropriate decisions, to protect their students, and to avoid costly litigation for themselves as well as their district.

Recommendations for Practice

Knowledge of school law, with emphasis on search and seizure issues, is a necessity for all educators today. The presence of drugs in schools today, and the use of guns by students are striking reasons for educators to enhance their knowledge of search and seizure principles and procedures. Many incidents go unreported or are downplayed by school systems in order to maintain a positive image in the public eye.

This study indicates that Florida public school administrators know the least about the subject of metal detectors/weapons (41%). The continued importation of weapons and drugs into the nation's schools suggests that this area needs immediate focus and attention by those who plan school law classes and educational conferences. As more schools opt to install and use metal detectors to maintain a safe school, the need for training in this important aspect of search and seizure law will become more readily apparent. Many Florida public school administrators see little need to enhance their knowledge in the use of metal detectors until school safety demands this option.

Knowledge of search and seizure issues is important to school security and to school safety. Mediocre results no higher than 71% underscore the serious need for further study in all content areas of school law related to search and seizure issues. Maintaining a safe and secure environment for learning demands that Florida public school administrators achieve a higher level of understanding than 71% in all search and seizure content areas.

State certification requirements in Florida require a course in school law for school administrators. Colleges and universities offer a course in school law to all who complete a master's degree in administration. However, most undergraduate programs

for teachers do not. Due to the confrontational nature of many parents today, the use of drugs and weapons by students in school and the litigious society in which we live, teachers need to have a strong understanding of the law, especially in the areas of search and seizure. A course in the law as it relates to schools should be offered to all who aspire to be teachers.

Implications

This study was undertaken to investigate the level of knowledge of administrators on search and seizure issues in Florida public schools. The analysis of data reflected that almost half (44%) of those surveyed failed to obtain an average score of 14 or better. The variables of school level and metropolitan statistical area had no bearing on achieving the mean score.

The final results of this study suggest that many school administrators in Florida public schools need additional training in the areas of the law as it pertains to search and seizure issues in schools. District level administrators need to provide in-service programs periodically on the law as it pertains to schools, with emphasis on search and seizure issues. Both teachers and school administrators need to remain knowledgeable about these important issues in order to maintain safe and secure educational environments, and to prevent costly litigation against the school system as well as school employees. Colleges and universities also need to intensify offerings in the law as it pertains to schools, with emphasis on search and seizure issues and practices.

More recently, the legal system has supported the efforts of school administrators to maintain a safe and secure learning environment for all. This has been accomplished

with some erosion of student rights and freedoms. But, it is important to remember that students still have constitutional rights as American citizens.

Recommendations for Future Study

Of 810 questionnaires emailed and mailed, 17% or 139 usable questionnaires were returned. Although a higher return rate was desired, there were a number of administrators who simply did not want to participate in the study. This may, in part, reflect professional anxiety over a series of questions about a subject that many need to know more about. At a time of increased accountability in Florida public schools, administrators as a group are not anxious to expose themselves to a study designed to document knowledge or the lack thereof. Additional measures must be employed to gain larger return rates on future questionnaires.

This study highlighted the need for additional course work in the law as it pertains to schools, both at the undergraduate and graduate levels. Florida public school districts need to offer in-service training periodically to update administrators and teachers on search and seizure procedures. The Florida Department of Education also needs to sponsor periodic seminars and to encourage individual school districts to offer more law related programs for professional development purposes.

Future research studies on search and seizure law should be focused on district superintendents on a statewide basis and later, if possible, on the national level. If district superintendents realize the importance of law as it relates to search and seizure issues, districts will schedule appropriate in-service training for all instructional and administrative school staff.

Additional research should be focused on the classroom teacher at all levels. Too often, the classroom teacher is dismissed as unimportant in search and seizure issues because administrators typically handle such situations. However, all teachers should have a thorough understanding of the law as it relates to schools. On many occasions, especially in small, rural school systems, a teacher is often appointed as the principal's designee while the principal is absent from the school building. Teachers also need to know about search and seizure issues in order to prevent costly mistakes from happening and to lessen the possibility of unwanted litigation.

APPENDIX A
UCF IRB APPROVAL LETTER



THE UNIVERSITY OF CENTRAL FLORIDA
INSTITUTIONAL REVIEW BOARD (IRB)

IRB Committee Approval Form

PRINCIPAL INVESTIGATOR(S): Catherine Slack

IRB #: 04-2188

PROJECT TITLE: Administrator's Knowledge of Legal Issues Related to Search and Seizure in Florida

Committee Members:

Full Board

Contingent Approval
Dated: _____

Final Approval
Dated: _____

Expiration
Date: _____

- Dr. Theodore Angelopoulos: _____
- Dr. Ratna Chakrabarti: _____
- Dr. Karen Dennis: _____
- Ms. Patricia Kent: _____
- Dr. Robert Kennedy: _____
- Dr. Valerie Sims: _____
- Dr. David Boote: _____
- Dr. Debra Reinhart: _____
- Dr. Tracy Dietz (alt): _____
- Dr. Janet Whiteside (alt) : _____
- Dr. Barbara Fritzsche (alt): _____
- Dr. Craig Van Slyke (alt): _____

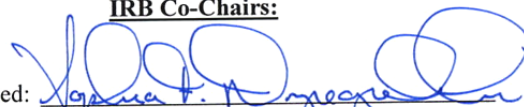
Chair

Expedited Approval
Dated: 7 Nov 2004
Cite how qualifies for expedited review: #7

Exempt
Dated: _____
Cite how qualifies for exempt status: _____

Expiration
Date: 6 Nov 2005

IRB Co-Chairs:

Signed: 
Dr. Sophia Dziegielewska

Signed: _____
Dr. Jacqueline Byers

NOTES FROM IRB CHAIR (IF APPLICABLE): Not a vulnerable population
? not gathering sensitive information. Less than
minimal risk. Sophia F. Dziegielewska.



Office of Research

ORIGINAL

November 12, 2004

Catherine Slack
P.O. Box 120554
Clermont, FL 32712

Dear Ms. Slack:

With reference to your protocol entitled, "Administrator's Knowledge of Legal Issues Related to Search and Seizure in Florida," I am enclosing for your records the approved, expedited document of the UCFIRB Form you had submitted to our office.

Please be advised that this approval is given for one year. Should there be any addendums or administrative changes to the already approved protocol, they must also be submitted to the Board. Changes should not be initiated until written IRB approval is received. Adverse events should be reported to the IRB as they occur. Further, should there be a need to extend this protocol, a renewal form must be submitted for approval at least one month prior to the anniversary date of the most recent approval and is the responsibility of the investigator (UCF).

Should you have any questions, please do not hesitate to call me at 407-823-2901.

Please accept our best wishes for the success of your endeavors.

Cordially,

Barbara Ward

Barbara Ward, CIM
IRB Coordinator

Copies: IRB office
Dr. Kenneth Murray, Educational Leadership, Room 222K, 32816-1250

APPENIDX B
QUESTIONNAIRE COVER LETTER

February 1, 2005

Dear Colleague:

As a doctoral candidate at the University of Central Florida and a high school assistant principal for Lake County Schools, I am conducting a study investigating administrator's knowledge of law related to search and seizure issues in Florida. The survey is designed to collect information as to the knowledge of law related to search and seizure issues in Florida public schools and also to collect demographic information.

It is my understanding that you are an administrator in a Florida public school. I am contacting a random sample of administrators from each county in Florida to ask them how they handle different situations where a search could be necessary. I would appreciate it if you would take a few minutes to answer questions on the enclosed survey. If you cannot accurately provide an answer or do not feel confident about a question, please leave that question blank rather than give erroneous information. There are no known risks, and participation is voluntary.

Responses to questions about your identity are strictly for follow-up purposes and will remain confidential. When you return your completed questionnaire, your name will be deleted from the mailing list and never connected to your answers in any way. If for some reason you prefer not to respond, please let me know by returning the blank questionnaire in the enclosed stamped envelope.

The results of this survey will be provided to you at your request. There are no direct benefits or compensation to participants.

If you have any questions about this research, please contact me at (352) 516-5243 or my faculty supervisor, Dr. Ken Murray, at (407) 823-1468. Questions or concerns about research participants' rights may be directed to the UCFIRB Office, University of Central Florida Office of Research, Orlando Tech Center, 12443 Research Parkway, Suite 207, Orlando, FL 32826. The phone number is (407) 823-2901. I realize this survey will take fifteen or twenty minutes of your valuable time, but the result should be worth the effort. Enclosed please find a postage paid envelope in which to return the survey. To be useful, your response must be received by April 15, 2005.

Thank you very much for helping with this important study.
Sincerely,

Catherine Slack
Doctoral Candidate, University of Central Florida

P.S. If by some chance we made a mistake and you are not an administrator in a Florida public school, please forward the survey to the appropriate personnel. Many thanks.

_____ I have read the procedure described above.

_____ I voluntarily agree to participate in the procedure.

_____ I would like to receive a copy of the survey results.

_____ I would not like to receive a copy of the survey results.

APPENDIX C
QUESTIONNAIRE

Search and Seizure Questionnaire

Instructions: Please read each statement below. Circle Y for Yes or N for No. If you do not know, circle DK for Don't Know.

	Yes	No	Don't Know
START HERE:			
1) May school Employees conduct a blanket search of all students in one class for missing tennis shoes? <i>DesRoches by DesRoches v. Caprio</i> ,156 F.3d 571; 129 Educ.L.Rep. 628 (1998)	Y	N	DK
2) May the fruits of a search conducted by a school administrator be used in a criminal prosecution even though the search was based upon reasonable suspicion and not probable cause? <i>New Jersey v. T.L.O.</i> , 469 U.S. 325 (1985)	Y	N	DK
3) Does reasonable suspicion exist if a student is seen in the hallway, ignores administrations multiple requests for a hallpass, becomes "excited and aggressive", is a known discipline problem, and admits coming from the parking lot which has been the site of recent thefts? <i>Coffman v. State</i> , 782 S.W.2d 249 (Tex. App. 1989)	Y	N	DK
4) Is a search of hand luggage prior to a field trip justified under the Fourth Amendment? <i>Desilets v. Clearview Regional Board of Education</i> , 265 N.J.Super. 370, 627 A.2d 667 (1993)	Y	N	DK
5) When a school administrator receives an anonymous phone call indicating that a student "would be carrying a substantial amount of drugs including LSD with him at school that day" and the administration and teachers had previously expressed concern and suspicion that the student was distributing drugs, may administration search the student? <i>State v. Drake</i> , 139 N.H. 662, 662 A.2d 265 (1995)	Y	N	DK
6) May administration confine students to a classroom while canine units walk up and down the rows of desks in search of drugs? <i>Doe v. Renfrow</i> , 631 F.2d 91 (7th Cir.1980), cert. denied, 451 U.S. 1022, 101 S.Ct 3015 (1981)	Y	N	DK
7) May canines be used to search lockers for drugs? <i>Commonwealth of Pennsylvania v. Cass</i> , 466 Pa. Super 66, 666 A.2d 313 (1998)	Y	N	DK
8) May metal detectors be used when determined necessary by the local police department? <i>People v. Pruitt</i> , 662 N.E. 2d 540 (Ill. App. 1 Dist. 1996)	Y	N	DK
9) May school resource officers use hand-held metal detectors to search all students entering the school? <i>People v. Dukes</i> , 580 N.Y.S. 2d 850 (N.Y. City Crim. Ct. 1992)	Y	N	DK

Instructions: Please read each statement below. Circle Y for Yes or N for No. If you do not know, circle DK for Don't Know.

Yes No Don't Know

CONTINUE HERE:

10) May administration require random drug testing of student athletes? <i>Vernonia School District 47J v. Acton</i> , 115 S.Ct. 2386 (1995)	Y	N	DK
11) May an administrator require students involved in a fight to submit to a drug test? <i>Willis v. Anderson Community School Corporation</i> , 158 F.3d 415 (7th Cir. 1998)	Y	N	DK
12) May administration conduct random drug testing of students involved in competitive extra-curricular activities? <i>Earls v. Board of Education</i> , 242 F.3d 1264 (10th Cir 2001)	Y	N	DK
13) May a student be subjected to a warrantless strip search by school officials following a confidential tip by a fellow student that the student was using drugs and parents had expressed a concern about drugs? <i>Williams by Williams v. Ellington</i> , 936 F.2d 881 (6th Cir. 1991)	Y	N	DK
14) May an administrator search a student's locker when the student was observed in an office where items had been stolen and was also found to have unauthorized objects concealed in his clothing? <i>R.D.L. v. State</i> , 499 So.2d 31(Fla. App. 2 Dist. 1986)	Y	N	DK
15) May an administrator, having previously heard reports that a student was involved in drugs, search the student's locker and car? <i>State v. Slattery</i> , 56 Wash.App. 820, 787 P.2d 932 (1990)	Y	N	DK
16) May an administrator search a student's car after observing that the student had glassy eyes, a flushed face, slurred speech, smelled of alcohol, and walked with an unsteady gait? <i>Shamberg v. State</i> , 762 P.2d 488 (Alaska App. 1988)	Y	N	DK
17) May administration conduct a mass locker search for weapons? <i>Isiah B. v. State of Wisconsin</i> , 176 Wis.2d 639, 500 N.W.2d 637 (Wis. 1993)	Y	N	DK
18) May a teacher have students empty their pockets and remove their shoes to search for \$3 reported missing? <i>Bellnier v. Lund</i> , 438 F. Supp. 47 (N.D., N.Y. 1977)	Y	N	DK
19) May a student who was seen ducking behind a car, who gives a false name to a school security guard, be forced by an administrator to remove her jeans and submit to a visual inspection of her brassiere? <i>Cales v. Howell Public Schools</i> , 635 F.Supp. 454 (E.D. Mich. 1985)	Y	N	DK

Instructions: Please read each statement below. Circle Y for Yes or N for No. If you do not know, circle DK for Don't Know.

Yes No Don't Know

CONTINUE HERE:

20) May an administrator strip search a class of seventh grade girls to recover four dollars and fifty cents? <i>Oliver v. McClung</i> , 919 F.Supp. 1206 (N.D.Ind. 1995)	Y	N	DK
21) May an administrator, after several alerts by a canine unit, strip search a student? <i>Doe v. Renfrow</i> , 631 F.2d 91 (7th Cir.1980), cert. denied, 451 U.S. 1022, 101 S.Ct 3015 (1981)	Y	N	DK
22) May two male administrators, given substantial background information, require a male student to remove his street clothes for inspection in the privacy of the boys locker room after observing an unusual bulge in the crotch area. <i>Cornfield v. Consolidated High School District No. 230</i> , 991 F.2d 1316 (7th Cir. 1993)	Y	N	DK
23) May an administrator conduct a strip search when \$100 is reported missing? <i>State of West Virginia ex rel Gilford v. Mark Anthony B.</i> , 189 W. Va. 538, 433 S.E. 2d 41 (W.Va. 1993)	Y	N	DK

Instructions: Please read each question below. Write your responses on the lines provided.

- 25) How many years of experience do you have in school administration? _____
- 26) Is your school an elementary, middle, or high school? _____
- 27) Is your school classified as rural, urban, or suburban? _____
- 28) What year were you first employed as an administrator? _____
- 29) In what county is your school located? _____

Thank you for your time in completing this questionnaire and returning it to me in the provided envelop by April 22, 2005.
Please share any additional comments you have in the box provided below.

APPENDIX D
QUESTIONNAIRE WITH CORRECT ANSWERS NOTED

Search and Seizure Questionnaire

Instructions: Please read each statement below. Circle Y for Yes or N for No. If you do not know, circle DK for Don't Know.

Yes No Don't
Know

START HERE:

1)	May school Employees conduct a blanket search of all students in one class for missing tennis shoes? <i>DesRoches by DesRoches v. Caprio</i> , 156 F.3d 571; 129 Educ.L.Rep. 628 (1998)	Y	N	DK
2)	May the fruits of a search conducted by a school administrator be used in a criminal prosecution even though the search was based upon reasonable suspicion and not probable cause? <i>New Jersey v. T.L.O.</i> , 469 U.S. 325 (1985)	Y	N	DK
3)	Does reasonable suspicion exist if a student is seen in the hallway, ignores administrations multiple requests for a hallpass, becomes "excited and aggressive", is a known discipline problem, and admits coming from the parking lot which has been the site of recent thefts? <i>Coffman v. State</i> , 782 S.W.2d 249 (Tex. App. 1989)	Y	N	DK
4)	Is a search of hand luggage prior to a field trip justified under the Fourth Amendment? <i>Desilets v. Clearview Regional Board of Education</i> , 265 N.J.Super. 370, 627 A.2d 667 (1993)	Y	N	DK
5)	When a school administrator receives an anonymous phone call indicating that a student "would be carrying a substantial amount of drugs including LSD with him at school that day" and the administration and teachers had previously expressed concern and suspicion that the student was distributing drugs, may administration search the student? <i>State v. Drake</i> , 139 N.H. 662, 662 A.2d 265 (1995)	Y	N	DK
6)	May administration confine students to a classroom while canine units walk up and down the rows of desks in search of drugs? <i>Doe v. Renfrow</i> , 631 F.2d 91 (7th Cir.1980), cert. denied, 451 U.S. 1022, 101 S.Ct 3015 (1981)	Y	N	DK
7)	May canines be used to search lockers for drugs? <i>Commonwealth of Pennsylvania v. Cass</i> , 466 Pa. Super 66, 666 A.2d 313 (1998)	Y	N	DK
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Instructions: Please read each statement below. Circle Y for Yes or N for No. If you do not know, circle DK for Don't Know.

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10) May administration require random drug testing of student athletes? <i>Vernonia School District 47J v. Acton, 115 S.Ct. 2386 (1995)</i>	Y	N	DK
11) May an administrator require students involved in a fight to submit to a drug test? <i>Willis v. Anderson Community School Corporation, 158 F.3d 415 (7th Cir. 1998)</i>	Y	N	DK
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20) May an administrator strip search a class of seventh grade girls to recover four dollars and fifty cents? <i>Oliver v. McClung</i> , 919 F.Supp. 1206 (N.D.Ind. 1995)	Y	N	DK
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Instructions: Please read each question below. Write your responses on the lines provided.

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- 26) Is your school an elementary, middle, or high school? _____
- 27) Is your school classified as rural, urban, or suburban? _____
- 28) What year were you first employed as an administrator? _____
- 29) In what county is your school located? _____

Thank you for your time in completing this questionnaire and returning it to me in the provided envelop by April 22, 2005.
Please share any additional comments you have in the box provided below.

APPENDIX E
VARIOUS COURSE SYLLABI

UNIVERSITY OF CENTRAL FLORIDA

EDA 7235

Doctoral Seminar in School Law

Fall 2002

**Thursday 5:30
Research Pavilion
Suite 215 Conference Room**

Kenneth T. Murray, J.D., Ph.D.

EDA 7235

SEMINAR IN SCHOOL LAW

Fall 2002

Professor: Kenneth T. Murray, J.D., Ph.D.
Office: Research Pavilion, Suite 215

Office Hours: T 3:30 - 5:30 P.M.
W 4:00 - 5:00 P.M.
TH 4:00 - 5:00 P.M.

Telephone (407) 384-2191 (Office)
(407) 384-2199 (Office FAX)

Course Overview

The purpose of this course is to explore various legal aspects related to the administration and organization of American education and to enable the individual student to research in depth selected legal topics. Each student is expected to demonstrate a considerable understanding of the rights and responsibilities of public school administrators. In addition, each student is expected to demonstrate a basic understanding of major sources of school related law and to write in a logical and clear manner.

Course Text

Required

Alexander, K. and Alexander, M. (2001). *American School Law, 5th Edition*. St. Paul, Minn.: West Publishing Company.

Recommended

Murray, K.T. and Murray B.A. (2001). *School Law for the Florida Educator, Second Edition*. Titusville, Florida: IntraCoastal Publishing.

Course Grading Strategy

Students will be evaluated on regular class attendance and participation, two examinations, class research assignments, presentations and a major research paper.

TENTATIVE SCHEDULE OF TOPICS*

CLASS SESSION

August	22	Introduction and housekeeping
	29	Chapter One - The Legal System Chapter Two - Historical Perspective of Public Schools
September	5	Chapter Five - Church and State
	12	Chapter Eight - Student Rights
	19	Chapter Eleven - Torts
	26	Chapter Fourteen - Certification, Contracts and Tenure
October	3	Chapter Fifteen - Teacher Rights and Freedoms
	10	Chapter Sixteen - Due Process Rights of Teachers
	17	Florida Association of School Administrators Annual State School Law Conference
	24	Mid-term Examination
	31	Student Presentations
November	7	Student Presentations
	14	Student Presentations
	21	Student Presentations
	28	Final Examination

*This is a tentative schedule of topics. The actual pace of the schedule will depend upon class progress.

**Recommended Reading
for
Legal Aspects of Schools EDA 7235**

Kenneth T. Murray, J.D., Ph.D.

The following books concerning educational law are recommended for optional reading.

Alexander and Alexander, *American Public School Law* (3rd edition). West Publishing, 1992.

Camp, Underwood, Connelly & Lan (editors), *The Principal's Legal Handbook*. NOLPE, 1993.

Fischer, Schimmel and Kelly, *Teachers and the Law*, (4th edition). Longman Publishers, USA, 1995.

Fischer and Sorenson, *School Law for Counselors, Psychologists, and Social Workers*, (3rd edition). Longman Publishers, USA, 1996.

Grilliot and Schubert, *Introduction to Law and the Legal System*, (4th edition). Houghton Mifflin, 1989.

Hudgins, Jr. and Vacca, *Law and Education, Contemporary Issues and Court Decisions*, (3rd edition). Michie, 1991.

Imber and Van Geel, *Education Law*. McGraw Hill, 1993.

Kerchner and Koppich, *A Union and Professionals, Labor Relations and Educational Reform*. Teachers College Press, 1993.

La Morte, *School Law, Cases and Concepts*, (5th edition). Allyn and Bacon, 1996.

McCarthy and Cambron-McCabe, *Public School Law*, (2d edition). Allyn and Bacon, 1987.

Murray and Murray, *Survival Guide for the Florida Teacher, Second Edition*. IntraCoastal Publishing, 2000.

Osborne, *Legal Issues in Special Education*. Allyn and Bacon, 1996.

Florida School Laws, (Current edition). Florida Department of Education, Tallahassee, Florida.

Recommended Cases Decisions

- Lemon v. Kurtzman*, 403 U.S. 602 (1971).
- Mueller v. Allen*, 463 U.S. 388 (1983).
- School District of Abington Township v. Schempp*, 374 U.S. 203 (1963).
- Wallace V. Jaffree*, 105 S.Ct. 2479 (1985).
- Board of Education of Westside Schools v. Mergens*, 110 S.Ct. 2356 (1990).
- Lee v. Weisman*, 112 S.Ct. 2649 (1992).
- Wisconsin v. Yoder*, 406 U.S. 205 (1972).
- Edwards v. Aguillard*, 107 S.Ct. 2573 (1987).
- Tinker v. Des Moines Independent Community School District*, 393 U.S. 503 (1969).
- Bethel School District v. Fraser*, 106 S.Ct. 3159 (1986).
- Hazelwood School District v. Kuhlmeier*, 484 U.S. 260 (1988).
- Board of Education of Island Trees v. Pico*, 457 U.S. 853 (1982).
- New Jersey v. TLO*, 105 S.Ct. 733 (1985).
- Dixon v. Alabama State Board of Education*, 294 F.2d 150 (1961).
- Goss v. Lopez*, 419 U.S. 565 (1975).
- Ingraham v. Wright*, 430 U.S. 651 (1977).
- Garcia by Garcia v. Miera*, 817 F.2d 650 (1987).
- Debra P. v. Turlington*, 564 F.Supp. 177 (1983).
- Pickering v. Board of Education*, 391 U.S. 563 (1968).
- Mt. Healthy School District v. Doyle*, 429 U.S. 274 (1977).
- Board of Regents v. Roth*, 408 U.S. 564 (1972).

Cleveland Board of Education v. La Fleur, 414 U.S. 632 (1974).

Wygant v. Board of Education, 106 S.Ct. 1842 (1986).

Erb v. Iowa State Board of Public Instruction, 216 N.W.2d 339 (1974).

PUBLIC SCHOOL LAW

Education 6232

Instructor

R. Craig Wood
B. O. Smith Research Professor
Box 117049, 258 Norman Hall
College of Education
University of Florida
Gainesville, FL 32611-4049
Ph: 352-392-2381 ext 266
Fax 352-392-0038
Email RCWOOD@COE.UFL.EDU

Office Hours: Mondays and Wednesdays 1:00-5:00 pm

Purpose and Overview: This course addresses the needs of public school administrators in the area of the legal aspects of public elementary and secondary education. The course is designed to assure that students in this course have the opportunity to learn basic legal principles outlined in the Law Domain of the Florida Certification level 1 Program.

Major Objectives of the Course:

- Demonstrate knowledge of federal constitutional provisions that apply to the public elementary and secondary education system, specifically individual rights of students and teachers guaranteed by the First Amendment, and judicially recognized fourth amendment, and Fourteenth Amendment rights applicable to students and teachers.
- Demonstrate knowledge of federal statutory and regulatory provisions, which influence public education, particularly that prohibition discrimination in public education.
- Demonstrate knowledge of state constitutional, statutory, and regulatory provisions governing the Florida public school system, including the statutory powers and duties of various school officers and officials.
- Identify standards and procedures pertaining to Florida administrative law, criteria applicable to certifying, hiring, and disciplining professional employees, and statutory provisions for school attendance, curriculum, and facilities.
- Demonstrate knowledge of tort and contract liability as related to the operation of the schools.
- Develop skills for researching legal issues related to public elementary and secondary education.

Class Attendance: Generally, class attendance is optional. However, if one does not present a case when called upon, absent or not, then this would reflect in the percentage toward Class Case Presentations.

There are no make up exams. Under extraordinary circumstances, on a case-by-case basis, one may present the instructor with his or her request/circumstances for review.

Students with Disabilities: Students requesting classroom accommodation must first register with the Dean of Students Office. The Dean of Students Office will provide documentation to the student who must then provide this documentation to the Instructor when requesting accommodation.

Required University of Florida Honor Code Statement

We, the members of the University of Florida community, pledge to hold ourselves and our peers to the highest standards of honesty and integrity.

Texts:

- K. Alexander and D. Alexander, *American Public School Law*, fifth ed. (West Thomson Learning, 2001, ISBN No. 0-534-57744-X)
- R. C. Wood and D. Thompson, *Education Finance law: Constitutional Challenges to State Aid Plans; an Analysis of Strategy*, second ed. (Dayton, OH: Education Law Ass'n, 1996, ISBN NO. 1-56534-069).

Grade Basis:

Class Participation	10 percent
Final Exam	90 percent

Or

Class Participation	10 percent
Case Paper	40 percent
Final Exam	50 percent

Course Schedule:

- August 28. Introduction, Course Schedule, Historical Perspectives, Governance Issues, Legal materials, Court System, Parts of a Case
- Sept. 4. School Attendance and Court Governance
- Sept. 18. Church & State Including Vouchers
- Sept. 25. Instructional Programs
- Oct. 2. Special Education: Handicapped Act & Section 504/ADA
- Oct. 9. First Amendment, Speech, Students
- Oct. 16. Student Rights/Responsibilities
- Oct. 23. Fourteenth Amendment Issues, Teacher Terms, Conditions, Rights, Florida Statutes Concerning the Professional Practices Commission, Dismissal and Non renewal, Procedural Due Process, Florida Statutory Provisions
- Oct. 30. Liability, Negligence, Defamation, Governmental Immunity, Florida Limitations, Constitutional Torts- Section 1983
- Nov. 6. Sexual Harassment
- Dec. 4. Education Finance Litigation
- Dec. 11. Final Examination

SCHOOL LAW
EDA 6232
COURSE SYLLABUS-SUMMER, 2005

Introduction:

The role of the law in education has its origin in the rich fabric and heritage of our national history. As society and our educational organizations have grown more complex, the role of the law has become integrally involved in the schooling process affecting the rights and responsibilities of students, parents, teachers, counselors,, administrators and a number of other persons and organizations. This course is viewed and presented as an introduction to the law affecting school involving a careful and deliberative study of the basic essentials of legal processes and protocols involving education. As such, priority will be placed on the study of a number of major court decisions in historic context and emphasis on present and emerging Florida State Statutes reflective of recent Constitutional change.

In addition, we need to constantly be alert to changes in all types of law such as the “Good News” Supreme Court case decided in the summer of 2001 or the 2002 cases of *Zelman v. Simmons-Harris* or *Pottawatomie v. Earls* essentially changed the face of law and school operations. Of even more recent origin the United States Supreme Court in the summer of 2003, addressed important areas in affirmative action (*Gratz v. Bolinger* and *Grutter v. Bolinger*) and sodomy/privacy (*Lawrence v. Texas*) which will have impact on today’s schools. In addition, the Supreme Court agreeing Spring of 2005 to hear two cases regarding the Ten Commandments being posted may have profound implications for the public schools. Also we will need to be cognizant of the School Code structural and functional changes (e.g., Level II certification, April, 2002 changes by the legislature***) now occurring in Florida law. Further, because this course is one taught for the practitioner, guest (e.g. attorneys, administrators) will be asked to speak on relevant issues as they arise.

The materials and course presentations will be directed at an increased sensitivity and awareness of the historic and contemporary legal standing of issues involving schools and understandings of the rights and responsibilities of teachers and administrators working and living in this context. Specific understanding of the essential nature of those issues and concerns addressed in the Florida Education Leadership Exam (FELE) play an integral and vital role in materials that one would assume a person graduating from out programs would have. It is also understood that primary focus is to provide educators with an essential undergirding in the law to perform better and not to make literal legal experts. For those interested in further work in school law, please see Dr. Permeth.

Objectives(Overlapping by Definition):

1. To become familiar with the leading Supreme Court decisions affecting public school policy and practice.

2. To interpret and apply legal principles contained in the Federal Constitution and Florida Statutes.
3. To be aware of major tenets of educational law with special emphasis on Florida Law in areas to include:
 - Roles/Responsibilities of the State Board of Education, Commissioner of Education, Superintendent, District School Board
 - Contracts -Student Discipline -Tort Liability
 - Due Process -Retirement

- Course Texts:
1. American Public School Law, Sixth Edition (2005) Alexander and Alexander (p. 1054)
 2. Florida School Laws, 2004 Edition, Florida State Department of Education
 3. Resource Materials Manual

Please bring all books to class each time we meet.

Chapter Readings:

While there will be variances regarding the time and order spent on readings and materials in class, each support the central role of class lecture and discussion as the primary tool of instruction. All readings are essential and play a coordinated role in presentations for class. Within this context, the following Chapters will be covered, though not necessarily in order, and supported by current issues of school law.

American Public School Law-

Chapter 1	The Legal System
Chapter 2	Historical Perspective of the Courts
Chapter 3	Role of the Federal Government
Chapter 4	Governance of Public Schools
Chapter 5	Church and State
Chapter 8	Student Rights
Chapter 9	Rights of Disabled Children
Chapter 14	Certification, Contracts and Tenure
Chapter 15	Teacher Rights and Freedom
Chapter 16	Due Process Rights of Teachers
Chapter 18	Collective Bargaining

Florida School Laws – (2004 Edition)

Chapter 1000	K-20 General Provisions
Chapter 1001	K-12 Governance
Chapter 1002	Student and Parental Rights and Educational Choice
Chapter 1006	Support for Learning

Chapter 1007	Articulation and Access
Chapter 1008	Assessment and Accountability
Chapter 1012	Personnel
Appendix A: Chapter 119	Public Records
Appendix B: Chapter 120	Administrative Procedures Act
Appendix G: Chapter 121	Florida Retirement System
Appendix L: Chapter 447	Labor Organizations

Others may be selected as the class continues through the semester.

Support Resources:

1. Stephen Goldstein, et. All. Law and Public Education, Third Edition, Mickie Press, 1995 (p. 1549)
2. H.C. Hudgins and Richard Vacca, Law and Education: Contemporary Issues and Court Decisions, Fourth Edition, Mickie Press, 1995 (p. 635)

Course Requirements:

One final exam – 300 points (see samples)
 One paper – Standing of Law and the Principalship
 Assignments (as appropriate)

Academic Accommodation:

Any student with a disability is strongly encouraged to meet with or call me during the first week of class to discuss accommodations. Each student must bring a current Memorandum of Accommodations from the Office of Disability Services which is prerequisite for formally receiving accommodations. Accommodated examinations through the Office of Student Disability Services require two weeks notice. All course documents are available in alternate format if requested in the students Memorandum of Accommodations.

Instructor:

Dr. Steve Permut
 Professor, Department of Educational Leadership and Policy Studies
 EDU 156 (813-974-1287) (W)
 813-997-4993 (H)
 813-625-1835 (C)
 fax: 813-974-5423
 e-mail:

Because of the nature of evening graduate classes on and off the Tampa Campus, you are more than invited to call me at home in the evening or on the weekend. I would also be glad to meet with you on weekday evenings or the weekends if desired.

COURSE SYLLABUS
Department of Educational Leadership
Florida Atlantic University

Course Number & Title: EDA 6232 Education and the Law

Catalog Description:

3 semester hours. Constitutional, statutory, and common law relating to education, legal aspects of discipline, contracts, tort liability and attendance.

Required Texts:

Professor will select the text for this course from the Recommended Text list below. Please see the University Book Store for your professor's choice(s).

Recommended Texts:

Alexander, K., & Alexander M. D. (1998). *American public school law* (4th ed.). St. Paul, MN: West.

Audio/Visual Technology:

Power Point Presentations

Internet research

Guidelines Used In Developing Course Objectives:

National Council Accreditation of Teacher Education (NCATE)

Florida Educational Leadership Examination (FELE)

Florida Principal Competencies (FPC)

Interstate Leader Licensure Consortium Standards (ISLLC)

Course Objectives:

The student will be able to:

1. Understand federal constitutional provisions that apply to American public education. (NCATE 11.1, 11.2; FELE Leadership E, Organizational Management C, E, I, Technology F; FPC 5, 6, 7, 18; ISLLC 5, 6)

2. Understand federal statutory and regulatory provisions that influence public education. (NCATE 11.1, 11.2; FELE School Law A, C, Technology F; FPC 5, 6, 7, 18; ISLLC 5, 6)
3. Understand the issues surrounding the separation of church and state. (NCATE 11.1, 11.2; FELE School Law A, B, C, D, Technology F, Public School Curriculum H, Technology F; FPC 1, 2, 3, 4, 6, 7, 11, 14, 19; ISLLC 5, 6)
4. Be conversant with laws and court decisions relating to the rights of disabled children. (NCATE 11.1, 11.2; FELE School Law A, B, C, D, Technology F; FPC 1, 2, 5, 6, 7, 10, 11, 14; ISLLC 5, 6)
5. Understand the concepts of defamation and the laws relating to student records. (NCATE 11.1, 11.2; FELE School Law D, Technology F, Human Resource Development D, E, F, G; FPC 5, 6, 10, 11, 13, 15; ISLLC 5, 6)
6. Appreciate the history of unconstitutional discrimination and the laws and court decisions which attempt to eliminate it. (NCATE 11.1, 11.2; FELE School Law A, B, C, D, Technology F; FPC 1, 2, 5, 6, 7, 10, 11, 14; ISLLC 5, 6)
7. Understand the bases of tort liability. (NCATE 11.1, 11.2; FELE School Law D, Technology F; FPC 1, 2, 5, 6, 7, 9, 10, 11, 13, 18; ISLLC 5, 6)
8. Understand the basic organizational patterns of Florida and local government. (NCATE 6.1, 10.1, 10.2, 10.3, 10.6, 11.4; FELE Technology A, C, E, F; FPC 10, 11, 14; ISLLC 5, 6)

Content Outline:

<i>Units:</i>	<i>Topics:</i>
1	Overview of the American legal system
2	Role of federal, state and local governments
3 - 4	Church and state issues
5	School attendance
6	The instructional program
7 - 8	Student rights
9	Rights of disabled children

10	Defamation and student records
11	Tort law
12	Teacher rights and freedoms
13	Due process rights of teachers
14	Teacher contracts
15	Desegregation

Course Requirements:

1. Pass each weekly quiz.
2. Submit weekly case briefs.
3. Optional: Review up to ten school finance-related internet sites.

Grading:

This course will follow FAU's grading policy.

A = 4.0	C = 2.00
A- = 3.67	C- = 1.67
B+ = 3.33	D+ = 1.33
B = 3.0	D = 1.00
B- = 2.67	D- = 0.67
C+ = 2.33	F = 0

Attendance Policy:

Regular attendance is expected. Attendance includes active involvement in all class sessions, class discussions, and class activities as well as professional conduct in class. Excused absences will be allowed for (1) a personal or family medical emergency and (2) a bona fide religious holiday.

Bibliography:

- Administration Leadership Service. (1968) *The department of business and finance in a public school system*. Washington: Educational Service Bureau.
- Aiken, M. C. (1984). *The administrator's role in evaluation use*. Los Angeles, CA: Center for the Study of Evaluation, Graduate School of Education, University of California.
- Alexander, K. & Alexander, M. D. (1998). *American public school law*. (4th ed.) St. Paul, MN: West Publishing Co.
- Bolmeier, E. C. (1973). *Landmark Supreme Court decisions on public school issues*. Charlottesville, VA: Michie Co.
- Bolmeier, E.C. (1975). *Sex litigation and the public schools*. Charlottesville, VA: Michie Co.
- Bosmajian, H.A. (1987). *The Freedom to read*. New York: Neal-Schuman.
- Bosmajian, H.A. (1988). *The Freedom of expression*. New York: Neal-Schuman.
- Cambron-McCabe, N., & McCarthy, M. (1986). *Public school law for teachers and students* (2nd ed.). Boston, MA: Allyn and Bacon.
- Data Research, I.R.M. (1996). *U.S. Supreme Court education cases*. (4th ed.). Rosemount, MN: Data Research, Inc.
- Fischer, L., Schimmel, D., & Kelly, C. (1987). *Teachers and the law*. New York: Longman.
- Florestal, K., & Cooper, R. (1997). *Decentralization of education: legal issues*. Washington, D.C.: World Bank.
- Nolte, M. C. (1983). *How to survive as a principal: The legal dimension*. Chicago: Teach 'Em.
- Reutter, E. (1985). *The law of public education*. Mineola, NY: Foundation Press.
- Thomas, S. B. (1985). *Legal issues in special education*. Topeka, KS: NOLPE.
- Valente, W. (1987). *Law in the schools*. Columbus, OH: Merrill.

Journals:

Journal of Law and Education

Bulletin of the National Association of Secondary School Principals

National Organization of Legal Problems in Education Newsletter

COURSE SYLLABUS

EDUCATIONAL STUDIES, LEADERSHIP AND COUNSELING

ADM 663

3 SEMESTER HOURS

I. Title: Public School Law

II. Catalog Description: A study of legal aspects of education. Critical legal content from constitutional law, court decisions, state statutes, state administrative regulations, Attorney General opinions, and local school district policies will be covered.

NOTE: This course may be taken as an elective by a person not pursuing an administrative degree or license (certificate).

III. Purpose: The purpose of this course is to have students understand the history of American Public School law. Further, the student will understand the current status of educational law in a perspective of history and the cultural, social, and political setting of a diverse country. The student will be able to plan and design policies and procedures for the legal operation, management, and control of public schools.

This course is designed to meet indicators and standards of learned societies, national standards, and international standards for administrators. It further incorporates professional ethics, advocacy issues, current events, trends, and research.

Principles, attitudes, skills, and KERA qualities critical to the professional administrator are incorporated into this course and fully comply with ISLLC and NCATE expectations. Predicated on the nature of the course along with student readiness, provision is made for the acquisition of knowledge along with the extension and refinement of learning. These are provided with specific applications of information and skills. The advanced student is prepared through reflection to integrate this on-going preparation into a professional operating gestalt with a foundation of professional ethics.

This course will enable the student to become familiar with the legislation of KERA in its official language. Each of the Kentucky Revised Statutes dealing with the reform act will be presented.

IV. Course Objectives:

The student will.....

- 1. describe what constitutes the body of educational law. ISSLC 4-5**
- 2. define current school laws within a social, political, and cultural perspective. ISSLC 4-5**
- 3. understand the foundation of school law. ISSLC 4-5**
- 4. internalize the difference between law and practice. ISSLC 4-5**
- 5. understand the effect of social change on law. ISSLC 4-5**
- 6. recognize selected legal terminology in order to interpret legal requirements for those affected. ISSLC 4-5**
- 7. understand where and when to obtain assistance in the resolution of legal problems. ISSLC 4-5**
- 8. know and describe references that are used for legal assistance. ISSLC 4-5**
- 9. prepare briefs related to actual school litigation. ISSLC 4-5**
- 10. analyze scenarios presented from actual subpoenas ISSLC 4-5**
- 11. become familiar with the KRS codification system. ISSLC 4-5**
- 12. participate in cooperative settings ISLLC 4-5**
- 13. use KRS, KRA, OAG, and case law to analyze their inter-relationship ISSLC 4-5**

V. Content Outline

- 1. Kentucky Revised Statutes (KRS)**
- 2. Kentucky Administrative Regulations (KRA)**
- 3. American Legal System**
- 4. History of Educational Law**
- 5. Role of Federal Government**
- 6. State Governance of Public School**
- 7. Church and State**
- 8. School Attendance** **ALL**
- 9. Instruction and the Law**
- 10. Student Rights** **ISSLC STANDARDS 4 AND 5**
- 11. Handicapped Education**
- 12. Desegregation**
- 13. Torts**
- 14. Teacher Contracts**

15. Teacher Rights
16. Teacher Dismissal
17. Discrimination in Employment
18. Collective Bargaining
19. Financing Public Schools
20. Property
21. Dual Court System

VI. Instructional Activities

Learning Focus

1. Acquisition/Integration
2. Extension/Refinement
3. Application
4. Reflection
5. Professionalism
6. On Demand Tasks
7. Scenarios
8. Role Playing

VII. Field Experience (None Required)

THE PURPOSES, OBJECTIVES, EXPERIENCES AND READINGS WILL PROVIDE
MULTIPLE EVIDENCES OF THE SIX ISLLC STANDARDS

VIII. Resources:

KENTUCKY SCHOOL LAWS, State Department of Education, Legal Services

EDUCATION WEEK

Selected Legal Bulletins

Internet Services

Selected Handouts

Journal, law books, and case books

IX. Final Grade Computation

A = 92% to 100%

B = 91% to 80%

C = 79% to 70%

A grade below B does not meet the Department of Educational Leadership and Counseling requirements for any degree or licensure program.

X. Attendance Policy

This course adheres to the policy published in the MSU Graduate Bulletin.

X. Text

Alexander, Kern S. and Alexander, David M., *AMERICAN PUBLIC SCHOOL LAW*, Fourth Edition, (1998), Wadsworth Publishing Company.

XI. Academic Honesty Policy

Cheating, plagiarism (submitting another person's material as one's own, or doing work for another person which will receive academic credit) are all impermissible. This includes the use of unauthorized books, notebooks, or other sources in order to secure or give help during an examination, the unauthorized copying of examinations, assignments, reports, term papers or Presentation of unacknowledged material as if were the student's own work. Disciplinary action may be taken beyond the academic discipline administered by the faculty member who teaches the course in which the cheating took place.

September 2001

COURSE SYLLABUS

EDU 704 School Law for Administrators

SEMESTER: Summer 2001 (June session)
PROFESSOR: Dr. Frank D. Adams

OFFICE: 115 Brandenburg Hall
HOURS: Posted outside office
PHONE: OFFICE – 1-(402)375-7379 HOME - 1-(402)-375-5604

INTERNET: ad33@uswest.net fadams@inebraska.com

WEB PAGE <http://community.heartland.net/fadams/default.htm>

TEXT. H. C. Hudgins, Jr., and Richard S. Vacca. (1999). Law and Education: Contemporary Issues and Court Decisions, (5th Edition). New York, NY: Matthew Bender & Company.

Steven H. Gifis. (1996). Law Dictionary. Hauppauge, NY: Barron's Educational Series, Inc.

ADDITIONAL TEXT. See supplemental text references.

COURSE DESCRIPTION. A course designed for in-depth study of current state statutes, federal legislation, significant court cases and rule-making which affect school financing, accreditation, contractual agreements, downsizing, consolidation, and teacher/student rights and responsibilities.

COURSE COMPETENCIES

Instructional Methods. The course will be taught using the following methods: lecture, computer / network investigations, problem solving, independent study, one-on-one investigations, computer database searches, and peer teaching and coaching.

Class Meetings and Times. The class meets **12:30 AM – 2:45 PM** from Monday through Thursday in the computer/Distance Learning room of **Conn Library**. The first class session will be on **Monday, June 4, 2001**; the last class session will be on **Thursday, July 5, 2001**. Any variation from this schedule will be made in writing to the class one week prior to the change.

Professional Education Program Theme

Bringing Together Theory and Practice within the Education Profession through Inquiry, Reflection, and Implementation.

Professional Educational Program Goals

The goal of the Wayne State college graduate program in Education is to develop professional educators who continually inquire and reflect on theory and practice within the education profession in support of present practices or to implement responsible changes.

Inquire	Reflect	Implement
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COURSE PROFESSIONAL OBJECTIVES

This course will assist you in facilitating your development as an educational leader and master teacher. These goals and objectives and the activities associated with them are directly related to the knowledge base for professional education and educational administration.

The student will:

- gain an understanding of the American legal system on the federal, state, and local levels;
- establish a reasonable understanding of compulsory school attendance and the basic rights of educators;
- establish a reasonable understanding of freedoms (expressed and implied), some instances would be religion, speech, and assembly;
- provide an overview of the issues ranging from taxation, to disbursement of funds, to efficient management of public monies.

INSTRUCTIONAL METHOD

This course will utilize professional reading, scholarly writing, oral presentations, active discussions, the internet (URL/web-based instruction), and distance learning.

Attendance. Professional educators extend the courtesy of notifying the instructor in advance of an absence, if at all possible. Owing to the design and delivery of the course, it is imperative that graduate students attend ALL class meetings. Absences from the class in excess of three absences will merit a reduction in the final grade.

Support Services. Wayne State College provides an array of services to assist students including the Conn Library and computer labs in the Conn Library, Carhart Math/Science Building, Gardner Hall and the Brandenburg Education Building. The Learning Center, located on the lower level of the student center, provides assistance in career planning, goal setting, personality assessment, stress management, and individual and group counseling.

COURSE ASSIGNMENTS

Discussion. The student will be expected to actively participate and contribute to class discussions.

Written Presentation. The student will demonstrate writing ability from an examination, reflection and completion of the following documents: chapter questions, case review / brief, and court briefs.

Oral Presentation. The student will read, review and present a selected courts case (assigned by the instructor) during the presentation, the student will respond to the facts of the case, the finding of the court, and the implications of the court's decision upon public education.

Computer Literacy. The student will demonstrate the ability to use a computer. During this course, students will access the files, database, and search engines of the Conn Library, search the ERIC database, use the internet, use a word processing program, and use appropriate software to develop presentation materials.

Reflection. The student will write SHORT reflective responses after having examined law journals / reporters on the following topics: compulsory education, student behavior, employee behavior, religion, rights, and expression.

Examination. The student will write ONE EXAMINATION (a FINAL EXAM) for this course.

COURSE OUTCOMES and OBJECTIVES

Each student will be able to:

1. develop a working vocabulary of legal terms
2. develop rudimentary knowledge of legal terms and language as applied to education
3. develop an understanding and appreciation of the relationship of law, the judicial system to public education
4. develop an understanding of the application and implication of laws and court decisions to the administration of public schools
5. attain a working knowledge of the chief sources of school law as a basis for continuing study of educational law
6. demonstrate a working knowledge of the structure of the federal and state judiciary
7. apply the provisions of pertinent constitutional amendments to school-related issues involving
 - a. legal foundation for public education
 - b. church/state relationships
 - c. public school/private school finances
 - d. discriminatory practices
 - e. student rights
 - f. employee rights
8. describe major federal laws and relevant court decisions affecting education. Apply them to educational problems and issues
9. articulate the state and federal court systems and related concepts of judicial organization
10. develop a working knowledge of state laws as they relate to:

a. the legal structure of education	f. teacher's rights and responsibilities
b. board of education	g. student's rights and responsibilities
c. public meetings	h. certification and employment
d. confidential meetings financial procedures e. attendance laws	i. curriculum
	j. school activities

ASSESSMENT

Item	%	GRADING
Attendance / class presentation	10 %	A 90 - 100
Court Case Briefs (15 case briefs)	30 %	B 80 - 89
Tests (FINAL)	30 %	C Below 80
Questions from the School District	15 %	
Group PRESENTATION	15 %	

COURSE REQUIREMENTS

This course will be conducted as a seminar. Students are expected to read assigned material, attend class sessions, and complete all course assignments. Participation in group activities is an essential element to success in this course.

1. Attendance. The class is scheduled to meet 15 times. If you need to be absent from class, please inform the instructor in a timely fashion.

2. Exams Final Exam (July 5th)

3. Court Cases. The student is to review / critique **fifteen (15)** court cases. The critique should follow the template included. The critique should reflect thought, accuracy, and a thorough examination of the case. FIVE of the cases are from the U. S. Supreme Court; FIVE of the cases are from the State of Nebraska OR the State of Iowa. The remaining FIVE cases may be taken from either of these sources. (if you reside in Iowa, you are encouraged to examine the State of Iowa decisions; if you reside in Nebraska, you are encouraged to examine the State of Nebraska decisions.) All of the court critiques / briefs are due on **July 4, 2001**.

4. Discussion. You are to form a group (group is defined as MORE than 3 and LESS than 6). From the structure of this group, you are to select two (2) of the Discussion issues and prepare to lead the discussion for the class. Preparation includes: having read the text material, reviewed the relevant court decisions, and have applied the issue to the State of Iowa OR the State of Nebraska public schools environment. (TOPICS FOR DISCUSSION - decision-making power of the board of education; procedural due process for students; procedural due process for employees; substantive due process for students and/or employees; discretionary duties of the board of education; religion in public schools; management and / or control of student behavior; and compulsory education).

5. Writing. You are responsible for writing a short response to each of the issues developed in the QUESTIONS FROM THE SCHOOL DISTRICT. The writing should address: (1) what decision would you make? (2) citation of relevant legal source(s) for your decision, and (3) How would this "affect" the school district?

6. Reflection. You are responsible for writing a 1-2 page reflection upon the current status of: compulsory education, student behavior, employee behavior, religion, rights, and expression. Be sure to support your ideas with appropriate citations.

DISCUSSION GROUPS

Direction. Within your group, select a topic from one of the following topics for your group. After having chosen the topic, you are responsible for presenting to the class on **Thursday, June 28, 2001** information relative to your topic.

Topics for class discussion

1. decision-making power of the board of education
2. procedural due process for students
3. procedural due process for employees
4. substantive due process for students and/or employees
5. discretionary duties of the board of education
6. religion in public schools
7. management and / or control of student behavior
8. compulsory education

FORMAT FOR PRESENTATION

- I. Identify the Topic
- II. Present background material
- III. Pressing issue(s) of the Topic
- IV. Legal citations affecting the Topic

Assessment Strategy	
1. Content appropriate for the class	40 %
2. Clarity	30 %
3. Organization of material	15 %
4. Participation of each member	15 %

Form for Briefing Court Cases

1. Identification

Rodriguez v. San Antonio Independent School District

United States Supreme Court

April 7, 1973

2. Synopsis

Summarize what the case is about and indicate what has happened up to the point of the decision.

NOTE: Summarize means to summarize not to list everything noted in the court brief.

3. Contentions of the Litigants.

a. **Plaintiff (Appellant)**

b. **Defendant (Appellee)**

4. Decision of the Court

State the decisions of the Court, summarize the reasoning used to justify the decision, and include the important points of law established by the court.

5. Implication of the Decision

What is the impact, or the implication of the court's decision?

SPECIFIC GROUP PROBLEM SOLVING EXERCISES

GROUP 1 Two third grade students during the morning recess period play on the large swing set. Two tenured, third grade teachers are sitting on a concrete abutment almost 20 feet from the swings and sliding board; it is regarded by the teachers as a prominent place to observe and supervise all of the playground activities. Karen White, a third grade student, walks in front of another student and is struck in the face by the seat of the swing of Jesse Cole. There are severe bodily injuries to Karen White.

QUESTION: To Sue, or NOT to sue?

GROUP 2 James Jenkins, a 9th grade science teacher, likes girls; he likes them a lot. He is very popular with the students, especially the girls who love all of the attention they receive from him. He constantly praises, hugs, and physically strokes his female students. Mr. Jenkins places his arms around Cathy Snow to demonstrate a proper technique used in adjusting a pipette. He accidentally touches Cathy's breast; she immediately registers her anger. She and her mother are not happy; this is the third time this week for this "accident." The students in the class consider Cathy Snow a trouble-maker.

QUESTION: To Sue, or NOT to sue?

GROUP 3 David Holmes, a 22 year old, first-year teacher, agreed to drive the cheerleading squad to the football game in his own stationwagon; as the new sponsor of the group, he has taken the assignment with great energy. Holmes was excused from his 5th and 6th period classes by the principal to drive the squad the 25 miles to the game. About two miles from the football stadium, the girls began to tease Holmes and begin to place items of clothing in front of his eyes to distract him from his driving. There are ten girls in the stationwagon intended for only 8 people. Holmes loses control of the car and strikes two cars headon; two girls are killed.

QUESTION: To Sue, or NOT to sue?

GROUP 4 Coach Matthews is a "chain-smoker" trying to "kick" the habit. Her fourth period volleyball class is a very large class of senior girls; they are typically a very well disciplined group of students. Coach Matthews starts the class with no problems, then stands by the office door to watch the four teams play each other with two groups of girls waiting to play the winners; they are standing and sitting around the playing area. The phone rings; as Coach Matthews talks to the principal, she lights up a cigarette, hands up the phone, and continues to smoke the cigarette. Jackie Hall spikes the ball into Denise Wall's face; there is considerable physical damage to Denise's face. The girls surround Denise for about ten minutes. There is blood everywhere; also there are lots of screams and shouts. The janitor discovers the scene.

QUESTION: To Sue, or NOT to sue?

GROUP 5 Don Stroud and JoAnn Hines are two teachers in the English department of Gilkey Junior High School (7-9) who do not like each other. The relationship is of long duration and is quite involved; few at the junior high school are sure of its origin. The two teach ten students in common; the courses are English literature and Spanish I. Stroud and Hines have carried on their warfare utilizing the relationships developed with these ten students; Matthew Jackson and Jack Nolby are two honor students in this group waiting for notification of advanced placement for their sophomore year. Following a rather heated argument between Stroud and Hines, Matthew tells his parents and the parents of Jack Nolby of the open warfare. Stroud learns of their conversation and sends letters to each of the members of the board of education *outlining the injustices caused by Hines*. Stroud and Hines write letters of non-support to the board of education and the high school principal for Matthew and Jack; the result of the letters is predictable.

QUESTION: To Sue, or NOT to sue?

QUESTIONS FROM THE SCHOOL DISTRICT

DIRECTIONS. Write a solution to the situations described; be sure to use appropriate citations to support your position.

1. Alphonse, a non-tenured teacher, is told by his superintendent, Mr. Right, that Alphonse will not receive a contract for the next school year at Getchum High School. When Alphonse asks for the reasons for this action, the only response Mr. Right would offer is "I have my reasons."
2. Mary Hall, a tenured teacher, has been dismissed from her position. Her superintendent, Mr. Gedja, furnished her with a ten page file dealing with the weaknesses supervisors found with her teaching and supervision. Since she maintains that she is a very good teacher, Mary asks her local NSEA/NEA representative, "Is there anything that I can do about this dismissal?"
3. Harry Hume is a tenured teacher of American History & Government. One day he tells his classes that the Communist system of government is a system of governing superior to that of the present one in the United States. He begins to challenge any of the students making remarks contrary to his beliefs. After receiving many complaints from parents, Harry's principal tells him, "If you say anything like this again in any of your classes, I will be forced to remove you from those classes and this school. Do you understand?"
4. After a high school seniors' psychology class on sexual attitudes, Wanda tells one of her female psychology class members that "I am a lesbian and proud of the quality of my sexual relationships with another woman." The female class member brings this to the attention of the principal, Mr. Slippery Eel.
5. Bruno is supervising a class of 9th grade males involved in physical education activities. Since the class is running smoothly, Bruno slips into his office to call his wife about a party they are invited to this coming weekend. When Bruno returns to the gymnasium, a student runs up to him and says, "Jim just broke his arm."
6. While reading a new science book, Edgar finds that a chapter of 3,000 words would be very helpful to his chemistry students. Edgar says, "I'll make a copy of this chapter for each of my students."
7. Millie, a teacher of mathematics in an elementary school, finds that she is "short" ten workbooks for her fifth grade class. Millie says, "Copy machines are the greatest inventions ever made for schools. I will just make ten additional books for my class, it will save the school a lot of money."

8. Because she is irritated by all of the emphasis on drug education in her school, Patience buys a sweatshirt that has "JUST SAY YES!" printed on it. Patience's principal says "You are forbidden to wear that shirt. You are trying to damage our drug education program. What would the other students say?"
9. Morty, a high school junior, has written an editorial for the school paper in which he calls for the resignation of the entire school board. The superintendent's wife is a counselor at the school and notifies him of the article. The superintendent calls the students telling him, "Your article will never be printed in this school system. The editorial is far too controversial!"
10. Tanya Smith, a high school senior, has applied for a good paying job with a growing company. An official from the company calls the superintendent's office saying, "What is Tanya Smith's grade point average?"
11. Blue Grain Valley High School has an enrollment of over 1,000 students and a great tradition of excellence in football. At the start of each football season, a local clergy comes to the locker room of the team and prays that, "God will make this a season free from injury and hatred."
12. Jefferson Lee Haight High School has won the state 5A football title for 9 out of the past 10 seasons. The high school band has been ranked 1st or 2nd in the state for the past 15 years for excellence, quality, and performance. James Outta, a Jewish freshman, is a trombonist with the high school band. His father, a local rabbi, asks, "Why is there a prayer said over the loud speaker before every football game?" The principal and the superintendent both having been in the school district for over 20 years almost speak in unison, "It is a tradition that has been at this high school for at least 50 years; it will continue as long as the community supports this tradition."
13. Joni Lake, a Pamela Anderson look-alike, is a personal secretary to the superintendent, James Goodman. For the annual Christmas party of the school district's administrators, Mr. Goodman tells Joni, "I want to make a special impression this year, so I want you to go with me to this party. Everyone there will be so jealous. My wife will be out of town until the middle of January."

EDU 704 School Law

FINAL EXAM

1. The decision-making power that exists with the board of education (state or local) has often led to difficulty in the field of education and law.

Define and contrast "ministerial duties" and "discretionary duties" by showing the relationship and application of these principles to the "delegation doctrine" concept.

2. Distinguish between these concepts:

Procedural due process AND substantive due process

How do these concepts differ at the district level from the building level?

3. Identify obligations of the superintendent to the board of education? (e.g., during the suspension of a student for greater than 5 days)

4. Explain why Tinker v. Des Moines Board of Education was such a significant case for American education and society. Address the issues as they relate to the school district as opposed to the building level. Identify significant points applicable to the school district.

5. Identify concerns for the school district in an effort to ensure the preservation of student "rights" as guaranteed by the United States Constitution. Be sure to cite sources for your information.

6. Explain the due process guarantees that students have under the 14th Amendment to the Constitution of the United States. How are the Fourteenth Amendment guarantees conveyed to and implemented in your school district? (In your explanation, please be specific.)

7. Explain the due process guarantee that students / staff have under the 5th Amendment to the Constitution of the United States. How have these rights / guarantees conveyed to / implemented in your school district?

8. Identify specific statutes of the State of Nebraska that provide authority for the board of education to act as a legal entity. Identify at least FOUR restrictions to these powers.

9. Identify statutes & legislation that gives authority to the school district to proceed with the process of consolidation. Are there any restriction to this action?

10. Briefly discuss school personnel responsibility regarding suspected Child Abuse in Nebraska / Iowa.

Following the discussion above, outline "best practices" that you believe could be used to formulate a good policy for a school district in this area.

EDU 704 School Law

Reading and Assignments

Date	Reading	Case Assignment	Class Assignment
Mon, June 4	Ch 1. pp. 1 – 24 Ch 2. pp. 25 – 58 (Ch. 9, pp. 289 – 340 REVIEW)	Fagan v. Summers	Organization Form discussion group
Tue, June 5	Ch. 4, pp. 83 - 120		
Wed, June 6	Ch. 4		
Thu, June 7	Ch 8, pp. 249 – 288		
Mon, June 11	Ch 8		
Tue, June 12	Ch 1, 2, 4, 8, & 9		Review Session
Wed, June 13			
Thur, June 14	Ch. 7, pp. 177 – 248		
Mon, June 18	Ch 7		
Tue, June 19	Ch 6, pp. 153 – 176	Rodriguez v. San Antonio	
Wed, June 20			
Thur, June 21	GROUP WORK	Do not meet as a class / meet in group	WORK in Discussion Groups
Mon, June 25	Ch 10, pp. 343 – 388	Tinker v. Des Moines	discussion group
Tue, June 26			DISCUSSION GROUPS
Wed, June 27	Ch 11, pp. 389 – 444	Pico v. Island Trees	discussion group
Thur, June 28			Group Presentations
Mon, July 2	Ch 13, pp. 483 – 552	Rowley v. US	
Tue, July 3	Ch 11		Group Presentations
Wed, July 4	4th of July Holiday NO CLASS		ALL CASES & Assignments DUE
Thur, July 5	FINAL EXAM On-LINE		

Shippensburg UNIVERSITY

SCHOOL LAW

EDA 591 / Summer 2000 / 3 credits
Monday & Wednesday, 6:00-9:45 p.m.

308 GROVE HALL

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— Counselors | Education Law | ELC-PA | Forensic Counselors | Legal Research | National
Principals | PSBA

BOOK: Alexander & Alexander, *American Public School Law*, 4th edn. (West/Wadsworth, 1998)

"When any Scholar is able to read Tully or such like classical Latin Author ex tempore, and to make and speak true Latin in verse and prose . . . and decline perfectly the paradigms of nouns and verbs in the Greek tongue, then may he be admitted into the College, nor shall any claim admission before such qualifications."

--Admissions Standards, Harvard College, c. 1650

READING ASSIGNMENTS		
CLASS #: DATE 2000	CASEBOOK PAGES	TOPICS
#1: Mon 5 June	xxxv-95 and 859-862	Preface; The Legal System; Historical Perspective of Public Schools; Role of the Federal Government; Governance of Public Schools
#2: Wed 7 June	95-146	{Meet in Library Lounge}; Governance of Public Schools [continued]; Church and State
#3: Mon 12 June	146-247	Church and State [continued]; School Attendance
#4: Wed 14 June	248-348	The Instructional Program; Student Rights
#5: Mon 19 June 2nd ½ of Class:	348-395 Mid-Term Examination	Student Rights [continued] covering Chapters 1-8
#6: Wed 21 June	396-499	Rights of Disabled Children; Desegregation; Torts
#7: Mon 26 June	499-602	Torts [continued]; Defamation and Student Records; Governmental Immunity; Certification, Contracts, and Tenure
#8: Wed 28 June	602-704	Certification, Contracts, and Tenure [continued]; Teacher Rights and Freedoms; Due Process Rights of Teachers; Discrimination in Employment
#9: Mon 3 July	705-807	Discrimination in Employment [continued]; Collective Bargaining; Finance
#10: Wed 5 July 2nd ½ of Class:	807-858 Final Examination	Finance [continued]; Property covering Chapters 9-20

COURSE DESCRIPTION: This course in Educational Administration studies the major areas of school law. Specific topics are listed above under "Reading Assignments." Federal and state constitutions, statutes and caselaw will be related to responsibilities and duties of teachers, supervisors, principals, superintendents, school board members and others. The course will introduce the student to methods and means of researching legal issues that relate to education.

REQUIREMENTS: (1) Students should read all of the casebook assignments according to the above schedule. (2) Students will take two traditional, in-class, closed-book examinations consisting of several essay questions, each weighted equally. The questions will be based on issues raised in the casebook and/or class discussion. (3) Students will complete a number of oral and/or written case briefs as assigned and explained by the

instructor.

ATTENDANCE POLICY: The Department of Educational Administration and Foundations acknowledges the importance of interaction, interpersonal relations, collegiality and networking, as well as the primary function of teaching and learning. Attendance in class is important to the accomplishment of these outcomes. If, in the opinion of the professor, after consultation with the Department chair, a student's absence is excessive (two or more classes), adjustments may include, but not be limited to, additional written work in lieu of class(es) missed, reduction of the course grade, or recommendation to drop the course.

LEARNING-DISABLED STUDENTS: Instructional accommodations will be made for students who, at the beginning of the semester, identify themselves to the instructor and have registered with the University Office of Social Equity as having been professionally evaluated as learning disabled.

COMMUNICATION: Students are encouraged to contact the instructor at any time via email or phone. Individual meetings can be arranged on campus or at the Capitol.

GRADING: The course grade will be determined by the grades received on the two examinations (40% each) and on the oral and/or written case briefs (20%). The resulting grade may then be raised or lowered by one grade (e.g., from B+ to A-, or from C to C-), at the sole discretion of the instructor, on the basis of the student's class participation. The instructor will be available later in the Summer and in the Fall to review the final exam with any student who is interested and to suggest means for improvement in writing successful essay answers.

APPENDIX F
DETAILS OF CASES SINCE *T.L.O.* DECISION

Table 24

Details of Cases Since T.L.O. Decision

Year	Case	Prevailing Party	Issue	Method	Area
1985	<i>Anable v. Ford</i>	Split	Breathalyzer	Drug Testing	Breathalyzer
1985	<i>Cales v. Howell Public Schools</i>	Student	Strip Search	Strip Searches	Partial Clothing
1985	<i>Kuehn v. Renton School District</i>	Student	Field Trips	Random Sweeps	Luggage
1985	<i>New Jersey v. T.L.O.</i>	School	Reasonableness	Purse, Book bag, etc.	Purse, Book bag, etc.
1986	<i>R.D.L. v. State</i>	School	Reasonableness	Locker	Locker
1986	<i>State v. Brooks</i>	School	Student Informant	Locker	Locker
1987	<i>Burnham v. West</i>	Student	Reasonableness	Random Sweeps	Locker
1987	<i>Cason v. Cook</i>	School	Resource Officer	Purse, Book bag, etc.	Purse, Book bag, etc.
1987	<i>Matter of Pima County Juvenile Action</i>	Student	Reasonableness	Person	Person
1987	<i>People v. Frederick</i>	School	Resource Officer	Person	Person
1987	<i>State of New Mexico v. Michael G.</i>	School	Student Informant	Locker	Locker
1987	<i>Webb v. McCullough</i>	School	Field Trips	Random Sweeps	Hotel Room
1987	<i>Wynn v. Board of Educ. Of Vestavia Hills</i>	School	Stolen Money	Person	Partial Clothing
1988	<i>Irby v. State</i>	School	Student Informant	Pockets/Jackets	Pockets/Jackets
1988	<i>People in Interest of P.E.A.</i>	School	Police Officer	Automobile	Automobile
1988	<i>Schaill by Kross v. Tippecanoe Cty. Sch. Corp.</i>	School	Athletics	Drug Testing	Drug Testing
1989	<i>Coffman v. State</i>	School	Reasonableness	Purse, Book bag, etc.	Purse, Book bag, etc.
1989	<i>Edwards v. Rees</i>	School	Reasonableness	Detainment	Detainment
1989	<i>T.J. v. State</i>	Student	Reasonableness	Purse, Book bag, etc.	Purse, Book bag, etc.
1990	<i>Berry v. State</i>	School	Student Informant	Pockets/Jackets	Pockets/Jackets
1990	<i>Commonwealth v. Carey</i>	School	Police Officer	Locker	Locker
1990	<i>In Re Alexander B.</i>	School	Police Officer	Person	Person
1990	<i>In Re Devon T.</i>	School	Parent Informer	Person	Person
1990	<i>State v. Slattery</i>	School	Student Informant	Automobile	Automobile
1991	<i>S.C. v. State</i>	School	Student Informant	Locker	Locker
1991	<i>State Ex Rel. Juvenile Dept. v. Dubois</i>	School	Student Informant	Purse, Book bag, etc.	Purse, Book bag, etc.
1992	<i>Commonwealth v. Snyder</i>	School	Student Informant	Locker	Locker
1992	<i>Coronado v. State</i>	Student	Reasonableness	Automobile	Automobile
1992	<i>In Interest of S.F.</i>	Student	Resource Officer	Pockets/Jackets	Pockets/Jackets

1992	<i>Martinez v. School District No. 60</i>	School	Reasonableness	Person	Breathalyzer
1992	<i>State v. Moore</i>	School	Student Informant	Purse, Book bag, etc.	Purse, Book bag, etc.
1992	<i>Widener v. State</i>	School	Reasonableness	Strip Searches	Full Clothing
1993	<i>A.J.M. v. State</i>	Student	Resource Officer	Pockets/Jackets	Pockets/Jackets
1993	<i>Cornfield by Lewis v. School Dist. No. 230</i>	School	Reasonableness	Strip Searches	Full Clothing
1993	<i>Desilets v. Clearview Board of Education</i>	School	Field Trips	Random Sweeps	Luggage
1993	<i>In Interest of Isiah B.</i>	School	Reasonableness	Random Sweeps	Locker
1993	<i>Matter of Gregory M.</i>	School	Resource Officer	Purse, Book bag, etc.	Purse, Book bag, etc.
1993	<i>Matter of Kevin P.</i>	School	Resource Officer	Pat Down	Person
1993	<i>Matter of Ronnie H.</i>	School	Reasonableness	Pockets/Jackets	Pockets/Jackets
1993	<i>People v. Taylor</i>	School	Student Informant	Locker	Locker
1993	<i>State Ex Rel. Galford v. Mark Anthony B.</i>	Student	Stolen Money	Strip Searches	Full Clothing
1993	<i>State v. Serna</i>	School	Resource Officer	Person	Person
1994	<i>In Interest of Doe</i>	School	Reasonableness	Purse, Book bag, etc.	Purse, Book bag, etc.
1994	<i>In Re S.K.</i>	School	Resource Officer	Pat Down	Person
1994	<i>Moule v. Paradise Valley</i>	Student	Athletics	Drug Testing	Drug Testing
1994	<i>Wilcher v. State</i>	School	Resource Officer	Person	Person
1995	<i>Hassan v. Lubbock Independent School Dist.</i>	School	Field Trips	Detainment	Detainment
1995	<i>In Interest of F.B.</i>	School	Metal Detectors	Random Sweeps	Person
1995	<i>In Re Joseph G.</i>	School	Parent Informant	Locker	Locker
1995	<i>Juran v. Independence School District</i>	School	Field Trips	Drug Testing	Breathalyzer
1995	<i>Oliver v. McClung</i>	Student	Stolen Money	Strip Searches	Full Clothing
1995	<i>People v. McKinney</i>	School	Reasonableness	Pockets/Jackets	Pockets/Jackets
1995	<i>S.A. v. State</i>	School	Student Informant	Purse, Book bag, etc.	Purse, Book bag, etc.
1995	<i>S.D. v. State</i>	School	Resource Officer	Person	Person
1995	<i>Singleton v. Board of Education, USD 500</i>	School	Stolen Money	Strip Searches	Full Clothing
1995	<i>State v. Biancamano</i>	School	Reasonableness	Person	Person
1995	<i>State v. Drake</i>	School	Anonymous Informant	Purse, Book bag, etc.	Purse, Book bag, etc.
1995	<i>Vernonia v. Acton</i>	School	Athletics	Drug Testing	Drug Testing
1995	<i>Wallace by Wallace v. Batavia School District</i>	School	Reasonableness	Detainment	Detainment
1996	<i>C.B. By and Through Breeding v. Driscoll</i>	School	Student Informant	Pockets/Jackets	Pockets/Jackets
1996	<i>In Interest of S.S.</i>	School	Reasonableness	Random Sweeps	Pockets/Jackets
1996	<i>People v. Dilworth</i>	School	Reasonableness	Person	Person
1996	<i>People v. Parker</i>	School	Metal Detectors	Random Sweeps	Person

1996	<i>People v. Pruitt</i>	Split	Metal Detectors	Random Sweeps	Person
1996	<i>State v. D.S.</i>	School	Resource Officer	Person	Person
1996	<i>Thompson v. Carthage School District</i>	School	Metal Detectors	Random Sweeps	Purse, Book bag, etc.
1997	<i>A.S. v. State</i>	Student	Reasonableness	Person	Person
1997	<i>Bridgman v. New Trier H.S.</i>	School	Reasonableness	Drug Testing	Medical Assessment
1997	<i>D.I.R.v. State</i>	Student	Reasonableness	Pat Down	Person
1997	<i>In Interest of Angelia D.B.</i>	School	Reasonableness	Strip Searches	Partial Clothing
1997	<i>In Re Adams</i>	School	Reasonableness	Person	Person
1997	<i>J.A.R. v. State</i>	School	Student Informant	Pat Down	Person
1997	<i>James by and Through James v. Unified School District No. 512</i>	School	Resource Officer	Automobile	Automobile
1997	<i>Jenkins By Hall v. Talladega City Bd.</i>	Student	Stolen Money	Strip Searches	Full Clothing
1997	<i>Smith v. McGlothlin</i>	School	Reasonableness	Person	Person
1997	<i>State Ex Rel. Juvenile Dept. v. Rohlffs</i>	School	Student Informant	Person	Pockets/Jackets
1997	<i>State v. Tywayne H.</i>	Student	Police Officer	Pat Down	Person
1998	<i>Brousseau v. Town of Westerly</i>	School	Reasonableness	Pat Down	Person
1998	<i>Commonwealth v. Cass</i>	School	Canine Searches	Random Sweeps	Locker
1998	<i>DesRoches by DesRoches v. Caprio</i>	School	Reasonableness	Random Sweeps	Purse, Book bag, etc.
1998	<i>In Re Latasha W.</i>	School	Metal Detectors	Random Sweeps	Person
1998	<i>K.K. v. State</i>	School	Student Informant	Person	Person
1998	<i>Kennedy v. Dexter Cons. School</i>	Student	Stolen Ring	Strip Searches	Full Clothing
1998	<i>Konop v. Northwestern School District</i>	Student	Stolen Money	Strip Searches	Full Clothing
1998	<i>Shoemaker v. State</i>	School	Stolen Wallet	Locker	Locker
1998	<i>Todd v. Rush County Schools</i>	School	Extracurricular/ Athletics	Drug Testing	Drug Testing
1998	<i>Trinidad School Dist. V. Lopez</i>	Student	Extracurricular/ Athletics	Drug Testing	Drug Testing
1998	<i>Willis by Willis v. Anderson Comm. School Corp.</i>		Reenrollment/ Discipline	Drug Testing	Drug Testing
1999	<i>B.C. v. Plumus Unified School District</i>	Student	Canine Searches	Random Sweeps	Person
1999	<i>F.S.E. v. State</i>	School	Reasonableness	Automobile	Automobile
1999	<i>G.J. v. State</i>	School	Anonymous Informant	Person	Person
1999	<i>Greenleaf Ex Rel. Greenleaf v. Cote</i>	School	Reasonableness	Person	Purse, Book bag, etc.
1999	<i>Hedges v. Musco</i>	Student	Reasonableness	Drug Testing	Drug Testing

1999	<i>In Re Josue T.</i>	School	Resource Officer	Person	Person
1999	<i>Miller Ex Rel. Miller v. Wilkes</i>	School	Extracurricular/ Athletics	Drug Testing	Drug Testing
1999	<i>Rhodes v. Guarricino</i>	School	Field Trips	Random Sweeps	Hotel Room
2000	<i>Anders Ex Rel. Anders v. Fort Wayne Comm. School</i>	School	Reasonableness	Automobile	Automobile
2000	<i>C.S. v. State</i>	School	Resource Officer	Pat Down	Person
2000	<i>Commonwealth v. Williams</i>	Student	Resource Officer	Automobile	Automobile
2000	<i>Covington County v. G.W.</i>	School	Student Informant	Automobile	Automobile
2000	<i>D.B. v. State</i>	School	Resource Officer	Pat Down	Person
2000	<i>Higginbottom Ex Rel. Davis v. Keithly</i>	Student	Stolen Money	Strip Searches	Full Clothing
2000	<i>In Re Joseph F.</i>	School	Police Officer	Detainment	Person
2000	<i>In Re Murray</i>	School	Reasonableness	Purse, Book bag, etc.	Purse, Book bag, etc.
2000	<i>In Re Patrick Y.</i>	School	Reasonableness	Random Sweeps	Locker
2000	<i>Joy v. Penn-Harris-Madison School Corp.</i>	School	Extracurricular/ Athletics/Driving/ Suspensions	Drug Testing	Drug Testing
2000	<i>Milligan v. Slidell</i>	School	Police Officer	Detainment	Detainment
2000	<i>State v. B.A.S.</i>	Student	Reasonableness	Person	Person
2000	<i>State v. Crystal B.</i>	Student	Reasonableness	Purse, Book bag, etc.	Purse, Book bag, etc.
2001	<i>Bundick v. Bay City Independent School Dist.</i>	School	Canine Searches	Canine Search	Automobile
2001	<i>Daniel S. v. Board of Ed. Of York Comm. Sch.</i>	Student	Reasonableness	Detainment	Detainment
2001	<i>In Re D.D.</i>	School	Resource Officer	Purse, Book bag, etc.	Purse, Book bag, etc.
2001	<i>In Re L.A.</i>	School	Anonymous Informant	Person	Person
2001	<i>In Re Randy G.</i>	School	Resource Officer	Purse, Book bag, etc.	Purse, Book bag, etc.
2001	<i>People v. Butler</i>	School	Resource Officer	Pat Down	Pockets/Jackets
2001	<i>Stockton v. City of Freeport</i>	School	Police Officer	Detainment	Detainment
2001	<i>Tannahill Ex Rel. Tannahill v. Lockney Ind. Sch.</i>	Student	All Students	Drug Testing	Drug Testing
2001	<i>Thomas v. Clayton County Bd. of Education</i>	Student	Stolen Money	Strip Searches	Full Clothing
2002	<i>Bd. Of Educ. Of Independent Sch. Dist. v. Earls</i>	School	Extracurricular/ Athletics	Drug Testing	Drug Testing
2002	<i>Fewless Ex. Rel. Fewless v. Bd. of Ed. of Wayland</i>	Student	Student Informant	Strip Searches	Full clothing

2002	<i>Joye v. Hunterdon Cent. Bd. Of Education</i>	School	Extracurricular/ Athletics/Driving	Drug Testing	Drug Testing
2002	<i>Linke v. Northwestern School Corp.</i>	School	Extracurricular/ Athletics/Driving	Drug Testing	Drug Testing
2002	<i>M.S. v. State</i>	Student	Reasonableness	Person	Person

APPENDIX G
FREQUENCY OF RESPONSES BY CATEGORY

Table 25

Frequency of Responses by Category

Questions by Category		Yes	No	Don't Know
<u>Reasonable Suspicion</u>				
#1	May school employees conduct a blanket search of all students in one class for missing tennis shoes?	52*	79	8
#2	May the fruits of a search conducted by a school administrator be used in a criminal prosecution even though the search was based upon reasonable suspicion and not probable cause?	118*	9	12
#3	Does reasonable suspicion exist if a student is seen in the hallway, ignores administrations multiple requests for a hallpass, becomes "excited and aggressive", is a known discipline problem, and admits coming from the parking lot which has been the site of recent thefts?	97*	35	7
#4	Is a search of had luggage prior to a field trip justified under the Fourth Amendment?	57*	49	33
#18	May a teacher have students empty their pockets and remove their shoes to search for \$3 reported missing?	36	91*	12
<u>Canine Searches</u>				
#6	May administration confine students to a classroom while canine units walk up and down the rows of desks in search of drugs?	63*	54	22
#7	May canines be used to search lockers for drugs?	123*	6	10
<u>Metal Detectors/Weapons</u>				
#8	May metal detectors be used when determined necessary by the local police department?	38*	91	10
#9	May school resource officers use hand-held metal detectors to search all students entering the school?	76*	28	35

Drugs/Drug Testing

#5	When a school administrator receives an anonymous phone call indicating that a student “would be carrying a substantial amount of drugs including LSD with him at school that day” and the administration and teachers had previously expressed concern and suspicion that the student was distributing drugs, may administration search the student?	115*	17	7
#10	May administration require random drug testing of student athletes?	61*	45	33
#11	May an administrator require students involved in a fight to submit to a drug test?	5	105*	29
#12	May administration conduct random drug testing of students involved in extracurricular activities?	53*	50	36

Lockers/Cars

#14	May an administrator search a student’s locker when the student was observed in an office where items had been stolen and was also found to have unauthorized objects concealed in his clothing?	133*	3	3
#15	May an administrator, having previously heard reports that a student was involved in drugs, search the student’s locker and car?	59*	66	14
#16	May an administrator search a student’s car after observing that the student had glassy eyes, a flushed face, slurred speech, smelled of alcohol, and walked with an unsteady gait?	107*	20	12
#17	May administration conduct a mass locker search for weapons?	94*	30	15

Strip Searches

#13	May a student be subjected to a warrantless strip search by school officials following a confidential tip by a fellow student that the student was using drugs and parents had expressed a concern about drugs?	5*	121	13
#19	May a student who was seen ducking behind a car, who gives a false name to a school security guard, be forced by an administrator to remove her jeans and submit to a visual inspection of her brassiere?	0	128*	11
#20	May an administrator strip search a class of seventh grade girls to recover four dollars and fifty cents?	0	135*	4
#21	May an administrator, after several alerts by a canine unit, strip search a student?	12	107*	20

#22	May two male administrators, given substantial background information, require a male student to remove his street clothes for inspection in the privacy of the boy's locker room after observing an unusual bulge in the crotch area?	23*	86	30
#23	May an administrator conduct a strip search when \$100 is reported missing?	5	115*	19

Note: Correct Response = *.

REFERENCES

- Alexander, K., & Alexander, M.D. (2001). *American public school law*. Belmont, CA: Wadsworth/Thomson Learning.
- Assessment & accountability briefing book*. (2004, April 24). Retrieved September 20, 2005, from Florida Department of Education Web Site:
<http://www.firn.edu/doe/sas/fcat/pdf/fcataabb.pdf>
- Avery, C.W. (1986). *Public school officials and search and seizure guidelines*. Unpublished doctoral dissertation, University of Miami, Coral Gables.
- Bagby, R.E. (1976). Search and seizure and the Fourth Amendment: Applicability to student rights (Doctoral Dissertation, Miami University, 1976). *Dissertation Abstracts International*, 37-07A, 3999.
- Baker, K. (1982). An overview of the law regarding search and seizure in public schools. *School Law Update*, 78-88.
- Beyer, D. (1997). School safety and the legal rights of students (ERIC/CUE Digest Number 121). New York, NY: ERIC Clearinghouse on Urban Education. (ERIC Document Reproduction Service No. ED414345).
- Black's Law Dictionary (5th ed. 1979). St. Paul, Minnesota: West Publishing.
- Boomer, L.W. (1992, Spring). Searching students: An ethical and legal issue for special educators. *Preventing School Failure*, 36(3), 16-19.
- Brooks, M.D. (1987). A study of the development of some issues related to search and seizure in the public schools (Doctoral Dissertation, Tennessee State University, 1987). *Dissertation Abstracts International*, 48-11A, 2768.
- Bull, H.C. (1997). High school administrators' perceptions of their comfort levels with the law of safe school (Doctoral Dissertation Abstracts International, University of Northern Colorado, 1997). *Dissertation Abstracts International*, 59-03A, 669.
- Clark, T.R. (1990). Mississippi superintendents' and secondary educators' knowledge of school law as it relates to students rights in selected areas (Doctoral Dissertation, University of Southern Mississippi, 1990). *Dissertation Abstracts International*, 51-10A, 3282.
- Czubaj, C. (1995, Summer). A legal analysis of school searches. *Education*, 115(4), 548-551.

- DeVoe, J.F., Peter, K., Kaufman, P., Ruddy, S.A., Miller, A.K., Planty, M., et al. (2002). *Indicators of school crime and safety: 2002*. U.S. Departments of Education and Justice. NCES 2003-009/NCJ 196753. Washington, D.C.: 2002.
- Dillman, D.A. (2000). *Mail and internet surveys: The tailored design method*. New York: John Wiley & Sons, Inc.
- Dise, J.H., Jr. (194, April). School searches still cause major problems: The risk of violating the fourth amendment. *School and College*, 33(4), 36-37.
- Dunaway, D.M. (1985). A legal analysis of the prevailing law of search and seizure in public elementary and secondary schools (Fourth Amendment, exclusionary rule, student searches) (Doctoral Dissertation, Auburn University, 1985). *Dissertation Abstracts International*, 46-09A, 2496.
- Ehrensals, P. A. (2003, April). The three faces of power: The U.S. supreme court's legitimization of school authority's parental, police, and pedagogic roles. *Educational Administration Quarterly*, 39(2), 145-163.
- Florida school indicators report*. (2004). Retrieved September 20, 2005, from Florida Department of Education Website: <http://info.doe.state.fl.us/fsir/default.cfm>
- Foldes, G., & King, D. (1995, May/June). Strip search in schools: Beyond the boundaries of the law? *Clearing House*, 68(5), 275-277.
- Franco, S.L. (1993-1994, December/January). Adopting a policy to protect students and the school: searches and seizures. *Quill and Scroll*, 68(2), 21.
- Gay, L.R. & Airasian, P. (2000). *Educational research: Competencies for analysis and application*. Upper Saddle River, N.J.: Merrill.
- Gettings, G.L. (1987). The status of search and seizure policies and practices in public school (Doctoral Dissertation, University of Missouri-Columbia, 1987). *Dissertation Abstracts International*, 49-07A, 1638.
- Greene, R. J. (1980). *Search and Seizure in public schools: An historical analysis*. Unpublished doctoral dissertation, Ball State University, Muncie.
- Harlan, J.P., & McDowell, C.P. (1981). Crime and disorder in the public school. *Educational Studies*, 12, 221-229.
- Heder, B.O. (1999, Winter). The development of search and seizure law in public schools. *Brigham Young University Education and Law Journal*, 71-118.

- Jacobs, T.L. (2000, Winter). School violence: An incurable social ill that should not lead to the unconstitutional compromise of students' rights. *Duquesne University Law Review*.
- Johnson, J.M. (1985). Educators' knowledge of legal issues affecting student: Considerations for teacher education (Doctoral Dissertation, University of Michigan, 1985). Michigan: University Microfilm International.
- Kalafatix, N.E. (1999). *Principal's knowledge of legal issues related to search and seizure issues in Virginia*. Unpublished doctoral dissertation, College of William and Mary, Virginia.
- Mawdsley, R. D. (2003). Random drug testing for extracurricular activities: Has the Supreme Court opened Pandora's box for public schools? *Brigham Young University Education & Law Journal*, (2), 587-621.
- Maxcy, S.J. (1991). *Educational leadership: A critical pragmatic perspective*. New York: Bergin & Garvey.
- Merriam-Webster's dictionary of law*. (1996). Springfield, MA: Merriam-Webster.
- Murray, K.T., & Murray, B.A. (2001). *School law for the florida educator*. Titusville, FL: IntraCoastal Publishing.
- Nichols, E.C. (2003). *Search and seizure in the public schools: Implications for students and school administrators*. Unpublished doctoral dissertation, University of Alabama, Tuscaloosa.
- Russo, C. (Ed.), (1995). *The yearbook of education law 1995*. Topeka, KS: National Organization on Legal Problems in Education.
- Salomone, R. C. (1992). Free speech and school governance in the wake of *Hazelwood*. *Georgia Law Review*, 26(2), 253-322.
- Schreck, M. (1991, January 1). The fourth amendment in the public schools: Issues for the 1990's and beyond. Orlando, FL: National Organization of Legal Problems of Education. (ERIC Document Reproduction Service No. ED 342 066).
- Sender, B. (1985, April). That heralded high court ruling on student searches leaves crucial questions unanswered. *American School Board Journal*, 172(4), 24-25.
- Shepard, J. (1993, Spring). The fourth amendment and searches in the public schools. *School Law Bulletin*, 24(2), 1-12.

- SPSS. (2003). Statistical package for social sciences for windows, Version 11.0 [Computer program]. Chicago, IL: SPSS Inc.
- Stader, D. L. (2002, Nov/Dec). Student searches: Policy guidelines for secondary principals. *The Clearing House*, 76(2), 66-70.
- Stefkovich, J.A., & Miller, J. (1999, Winter). Law enforcement officers in public schools: Student citizens in safe havens? *Brigham Young University Education and Law Journal*, 25-69.
- Stefkovich, J.A., & Torres, M.S., Jr. (2003, April). The demographics of justice: Student searches, student rights, and administrator practices. *Educational Administration Quarterly*, 39(2), 259-282.
- Student searches and the law*. (1995). Malibu, CA: Pepperdine University, National School Safety Center.
- Trosch, L. et al. (1982, January). Public school searches and the fourth amendment. *Journal of Law and Education*, 11(1), 41-63.
- Watson, R.D. (1990). An extended case study of legal problems confronting school administrators in the areas of student search and seizure and student freedom of speech (Doctoral Dissertation, Kansas State University, 1990). *Dissertation Abstracts International*, 51-06A, 1869.

LIST OF CASES

- A.J.M. v. State*, 617 So.2d 1137 (Fla.App. 1 Dist. 1993).
- Anable v. Ford*, 653 F. Supp. 22(W.D. Ark. 1985).
- Anders ex rel. Anders v. Fort Wayne Community Schools*, 124 F.Supp.2d 618 (N.D. Ind. 2000).
- A.S. v. State*, 693 So.2d 1095 (Fla.App. 2 Dist. 1997).
- B.C. v. Plumas Unified School District*, 192 F.3d 1260 (9th Cir. 1999).
- Bellnier v. Lund*, 438 F. Aupp. 47 (N.D.N.Y. 1977).
- Berry v. State*, 561 N.E.2d 832 (Ind.App. 1 Dist. 1990).
- Board of Education of Independent School District v. Earls*, 122 S.Ct. 2559 (2002).
- Boyd v. United States*, 116 U.S. 616(1886).
- Bridgman v. New Trier High School Dist. No. 203*, 128 F.3d 1146 (7th Cir. 1997).
- Brown v. Board of Education of Topeka*, 347 U.S. 483, 74 S. Ct. 686 (1954).
- Brousseau v. Town of Westerly*, 11 F.Supp.2d 177 (D.R.I. 1998).
- Bumper v. North Carolina*, 20 L. Ed 2d 797, 391 U.S. 543 (1968).
- Bundick v. Bay City Independent School District*, 140 F.Supp.2d 735 (S.D.Tex, 2001).
- Burnham v. West*, 681 F.Supp. 1160 (E.D.Va. 1986).
- Caldwell v. Cannady*, 340 F. Supp. 835 (N.D. Tex 1971).
- Cales v. Howell Public Schools*, 635 F.Supp. 454 (E.D.Mich. 1985).
- Cason v. Cook*, 810 F.2d 188 (8th Cir. 1987).
- C.B. by and through Breeding v. Driscoll*, 82 F.3d 383 (11th Cir. 1996).
- Coffman v. State*, 782 S.W.2d 249 (Tex.App. 1989).
- Commonwealth of Pennsylvania v. Cass*, 466 Pa. Super 66, 666 A.2d 313 (1998).

Commonwealth v. Carey, 554 N.E.2d 1199 (Mass. 1990).

Commonwealth v. Snyder, 597 N.E.2d 1363 (Mass. 1992).

Commonwealth v. Williams, 749 A.2d 957 (Pa.Super. 2000).

Cornfield by Lewis v. School District No. 230, 991 F.2d 1316 (7th Cir. 1993).

Cornfield v. Consolidated High School District No. 230, 991 F.2d 1316 (7th Cir. 1993).

Coronado v. State, 835 S.W.2d 636 (Tex.Cr.App. 1992).

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

C.S. v. State, 735 N.E.2d 273 (Ind.App. 2000).

Daniel S. v. Board of Education of York Com. High School, 152 F.Supp.2d 949 (N.D.Ill 2001).

D.B. v. State, 728 N.E.2d 179 (Ind.App. 2000).

Desilets v. Clearview Regional Board of Education, 265 N.J.Super. 370, 627 A.2d 667 (1993).

DesRoches by DesRoches v. Caprio, 156 F.3d 571 (4th Cir. 1998).

D.I.R. v. State, 683 N.E.2d 251 (Ind.App. 1997).

Doe v. Renfrow, No H79-233 U.S.D.C., IN, August, (1979).

Doe v. State, 540 P. 2d 827. Court of Appeals of New Mexico, (1975).

Edwards v. Rees, 883 F.2d 882 (10th Cir. 1989).

Fewless ex rel. Fewless v. Board of Education of Wayland, 208 F.Supp.2d 806 (W.D.Mich. 2002).

F.S.E. v. State, 993 P.2d 771 (Okla.Crim.App. 1999).

G.J. v. State, 716 N.E.2d 475 (Ind.App. 1999).

Greenleaf ex rel. Greenleaf v. Cote, 77 F.Supp.2d 168 (D.Me. 1999).

Hassan v. Lubbock Independent School District, 55 F.3d 1075 (5th Cir. 1995).

Hedges v. Musco, 33 F.Supp.2d 369 (D.N.J. 1999).

Higginbottom ex rel. Davis v. Keithly, 103 F.Supp.2d 1075 (S.D.Ind. 2000).

Horton v. Goose Creek Independent School District, 690 F.2d 470 (5th Cir. 1982).

In interest of Angelia D.B., 564 N.W.2d 682 (Wis. 1997).

In interest of Doe, 887 P.2d 645 (Hawaii, 1994).

In interest of F.B., 658 A.2d 1378 (Pa.Super. 1995).

In interest of S.F., 607 A.2d 793 (Pa.Super. 1996).

In interest of S.S., 680 A.2d 1172 (Pa.Super. 1996).

In re Adams, 697 N.E.2d 1100 (Ohio App. 11 Dist. 1997).

In re Alexander B., 270 Cal.Rptr. 342 (Cal.App. 2 Dist. 1990).

In re D.D., 554 S.E.2d 346 (N.C.App. 2001).

In re Devon T., 584 A.2d 1287 (Md.App. 1991).

In re Donaldson, 269 Cal. App. 2d 509, 75 Cal Rptr. 220 (1969).

In re Isiah B., 500 N.W. 2d 637 (Wis. 1993).

In re Joseph F., 102 Cla.Rptr.2d 641 (Cla.App. 1 Dist. 2000).

In re Joseph G., 38 Cal.Rptr. 902 (Cal.App. 4 Dist. 1995).

In re Josue T., 989 P.2d 431 (N.M.App. 1999).

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

In re Latasha W., 70 Cal.Rptr.2d 886 (Cal.App. 2 Dist. 1998).

In re Murray, 525 S.E.2d 496 (N.C.App. 2000).

In re Patrick Y., 746 A.2d 405 (Md. 2000).

In re Randy G., 110 Cal.Rptr.2d 516 (Cal. 2001).

In re S.K., 647 A.2d 952 (Pa.Super. 1994).

Interest of L.L., 280 N.W. 2d 343. Court of Appeals of Wisconsin, (1979).

Irby v. State, 751 S.W.2d 670 (Tex.App.-Eastland 1988).

Jenkins by Hall v. Talladega City Board of Education, 115 F.3d 821 (11th Cir. 1997).

James by and through James v. Unified School District No. 512, 959 F.Supp. 1407 (D.Kan. 1997).

J.A.R. v. State, 689 So.2d 1242 (Fla.App. 2 Dist. 1997).

Joy v. Penn-Harris-Madison School Corporation, 212 f.3d 1052 (7th Cir. 2000).

Joye v. Hunterdon Central Board of Education, 803 A.2d 706 (N.J.Super.A.D. 2002).

Juran v. Independence or Central School District 13J, 898 F.Supp. 728 (D.Or. 1995).

K.K. v. State, 717 So.2d 629 (Fla.App. 5 Dist. 1998).

Kennedy v. Dexter Consolidated Schools, 955 P.2d 693 (N.M.App. 1998).

Konop v. Northwestern School District, 26 F.Supp.2d 1189 (1998).

Kuehn v. Renton School District No. 403, 694 P.2d 1078 (Wash. 1985).

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

Mapp v. Ohio, 367 U.S. 643 (1961).

Martens v. District No. 220, 620 F. Supp. 29 (D.C. Ill. 1985).

Martinez v. School District No. 60, 852 P.2d 1275 (Colo.App. 1992).

Matter of Gregory M., 606 N.Y.S.2d 579 (Ct.App. 1993).

Matter of Kevin P., 587 N.Y.S.2d 730 (A.D.2 Dept. 1992).

Matter of Pima County Juvenile Action, 733 P.2d 316 (Ariz.App. 1987).

Matter of Ronald B., 401 N.Y.S. 2d 544, Supreme Court, Appellate Division, Second Department, (1978).

Matter of Ronnie H., 603 N.Y.S.2d 579 (A.D.2 Dept. 1993).

Miller ex rel. Miller v. Wilkes, 172 F.3d 574 (8th Cir. 1999).

Milligan v. City of Slidell, 226 F.3d 652 (5th Cir. 2000).

Moule v. Paradise Valley Unified School District No. 69, 863 F.Supp. 1098 (D.Ariz. 1994).

M.S. v. State, 808 So.2d 1263 (Fla.App. 4 Dist. 2002).

Nelson v. State, Fla. App., 319 So. 2d 154 District Court of Appeals of Florida, Second District, (1975).

New Jersey v. T.L.O., 469 U.S. 325 (1985).

Odenheim v. Carlstadt-East Regional school District, 510 A.2d 709 (N.J. Super. Ch. Div. 1985).

Oliver v. McClung, 919 F.Supp. 1206 (N.D.Ind. 1995).

People in interest of P.E.A., 754 P.2d 382 (Colo. 1988).

People v. Bowers, 339 N.Y.S. 2d 783 N.Y. Cr. Ct., (1973).

People v. Butler, 725 N.Y.S.2d 534 (Sup. 2001).

People v. D., 358 N.Y.S. 2d 403 Court of Appeals of New York, (1974).

People v. Dilworth, 214 Ill.Dec. 456, 661 N.E.2d 310 (Ill. 1996).

People v. Dukes, 580 N.Y.S. 2d 850 (N.Y. City Crim. Ct. 1992).

People v. Fredrick, 237 Cal.Rptr. 338 (Cal.App. 1 Dist. 1987).

People v. Jackson, 65 Misc. 2d 909, 319 N.Y.S. 2d 731, affd. 30 N.Y. 2d 734, 333 N.Y.S.2d 167, 284 N.E. 2d 153, (1972).

People v. Lanthier, Cal 3d 751, 97 Cal Rptr. 297, 488 2d 625 (1971).

People v. McKinney, 211 Ill.Dec. 380, 655 N.E.2d 40 (Ill.App. 5 Dist. 1995).

People v. Overton, 51 Misc. 29, 140 (1960, 1966, 1967, 1968).

People v. Parker, 219 Ill.Dec. 960, N.e.2d 813 (Ill.App. 1 Dist. 1996).

People v. Pruitt, 662 N.E.2d 540 (Ill.App. 1 Dist. 1996).

People v. Scott D., 34 N.Y.29 483, 489, 315 N.E.2d 466, 470, 358 N.Y.S.2d 403, 408 (N.Y. 1974).

People v. Stewart, 63 Misc. 2d 601, 313 N.Y.S. 2d 253 (1970).

People v. Taylor, 192 Ill.Dec. 630, 625 N.E.2d 785 (Ill.App. 4 Dist. 1993).

Phillips v. Johns, 12 Tenn. App., 354 (1930).

Piazzola v. Watkins, 316 F. Supp. 621 (M.D. Ala. 1970), aff'd, 442 F. 2d 284 (5th Cir. 1971).

R.D.L. v. State, 499 So.2d 31 (Fla.App. 2 Dist. 1986).

Rhodes v. Guarricino, 54 F.Supp.2d 186 (S.D.N.Y. 1999).

S.A. v. State, 654 N.E.2d 791 (Ind.App. 1995).

S.C. v. State, 650 S.2d 198 (Fla.App. 3 Dist. 1995).

Schaill by Kross v. Tippecanoe County School Corporation, 864 F.2d 1309 (7th Cir. 1988).

S.D. v. State, 650 S.2d 198 (Fla.App. 3 Dist. 1995).

Shamberg v. State, 762 P.2d 488 (Alaska App. 1988).

Shoemaker v. State, 971 S.W.2d 178 (Tex.App.-Beaumont 1998).

Singleton v. Board of Education USD 500, 894 F.Supp. 386 (D.Kan. 1995).

Skinner v. Nathinal Railway Executives Assn., 489 U.S. 602 (1989).

Smith v. McGlothin, 119 F.3d 786 (9th Cir. 1997).

State ex rel Juvenile Department v. DuBois, 821 P.2d 1124 (Or.App. 1991).

State ex rel Juvenile Department v. Rohlfss, 938 P.2d 768 (Or.App. 1997).

State in Interest of Feazell, La. App, 360 So. 2d 907. Court of Appeals of Louisiana, Third Circuit, (1978).

State of New Mexico v. Michael G., 748 P.2d 17 (N.M.App. 1987).

State of West Virginia ex rel Galford v. Mark Anthony B., 433 S.E. 2d 41 (W. Va. 1993).

State v. B.A.S., 13 P.3d 244 (Wash.App.Div. 1 2000).

State v. Biancamano, 666 A.2d 199 (N.J.Super.A.D. 1995).

State v. Brooks, 718 P.2d 837 (Wash.App. 1986).

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

State v. Drake, 139 N.H. 662, 662 A.2d 265 (1995).

State v. D.S., 685 So.2d 41 (Fla.app. 3 Dist. 1996).

State v. McKinnon, 558 P. 2d 781 Supreme Court of Washington, En Banc. (1977).

State v. Moore, 603 A.2d 513 (N.J.Super.A.D. 1992).

State v. Serna, 860 P.2d 1320 (Ariz.App.Div. 1 1993).

State v. Slattery, 56 Wash.App. 820, 787 P.2d 932 (1990).

State v. Stein, 203 Kan. 638, 436 p. 2d, 1 (1969), *cert. denied*, 396 U.S. 947 (1970).

State v. Tywayne H., 933 P.2d 251 (N.M.App. 1997).

Stern v. New Haven Community School, 529 F. Supp. 31 (E.D. Mich. 1981).

Stockton v. Freeport, Texas, 147 F.Supp.2d 642 (S.D.Tex. 2001).

Tannahill ex rel. Tannahill v. Lockney Independent School District, 133 F.Supp.2d 919 (N.D.Tex. 2001).

Thomas v. Clayton County Board of Education, 94 F.Supp.2d 1290 (2001).

Thompson v. Carthage School District, 87 F. 3d 979 (8th Cir. 1996).

Tinker v. Des Moines Independent Community School District, 395 U.S. 503 (1969).

T.J. v. State of Florida, 536 So.2d 1320 (Fla.App. 2 Dist. 1989).

Todd v. Rush County School, 133 F.3d 984 (7th Cir. 1998).

Trinidad School district No. 1 v. Lopez, 963 P.2d 1095 (Colo. 1998).

United States Constitution Amended, Amendment I (2004)

United States Constitution Amended, Amendment IV (2004)

United States Constitution Amended, Amendment XIV (2004)

United States v. Lopez, 115 S. Ct. 1624 (1995).

Vernonia School District 47J v. Acton, 115 S. Ct. 2386 (1995).

Wallace by Wallace b. Batavia School District 101, 68 F.3d 1010 (7th Cir. 1995).

Webb v. McCullough, 828 F.2d 1151 (6th Cir. 1987).

Weeks v. United States, 232 U.S. 383, 34 S. Ct. 341, 58 L. Ed. 652(1914).

Widner v. State, 809 F.Supp. 35 (S.D.Ohio 1992).

Wilcher v. State, 876 S.W.2d 466 (Tex.App.-El Paso 1994).

Williams v. Ellington, 936 F.2d 881 (6th Cir. 1991).

Willis v. Anderson Community School Corporation, 158 F.3d 415 (7th Cir. 1998).

Wynn v. Board of Education of Vestavia Hills, 508 So.2d 1170 (Ala. 1987).

Young v. ...the State, 209 S.E. 2d 96. Court of Appeals of Georgia, (1974).