

Searching for a Solution: A Proposed Change to the Code of Iowa Chapter 808A

Morgan N. Engling*

ABSTRACT: Iowa has one of the more restrictive student-search rules in the country. While the U.S. Supreme Court has declared certain suspicionless searches to be reasonable, chapter 808A of the Iowa Code has maintained its restrictions on Iowa public-school administrators by disallowing student searches that lack reasonable suspicion. Despite these restrictions, administrators conduct suspicionless student searches. These searches tend to remain unchallenged, however, because parents, as well as many other Iowans, would rather have the administrators conduct the searches to ensure the safety of students. The Iowa General Assembly should retain this law to protect students from suspicionless searches, but it should carve an exception to allow metal detectors in schools if school boards choose to install them. Metal detectors help prevent imminent violence, which is a much greater concern than the fight against drugs. This Note (1) explores the history of student search-and-seizure law in comparison to the Iowa statute, (2) urges administrators to follow the proper legislative avenue in protecting students, and (3) proposes a minor change to chapter 808A that would allow metal detectors in schools, yet preserve the student protections against mandatory, suspicionless drug testing and searches.

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* J.D. Candidate, The University of Iowa College of Law, 2009; B.A., Northwestern University, 2006. Thanks to my family for the continued support. Thanks to the editors and student writers of Volumes 93 and 94 for all their help and hard work. Any remaining errors are mine alone.

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II.B discusses chapter 808A of the Iowa Code, which outlines the regulations by which school administrators and peace officers in public schools may search a student.⁶ Part II.B.1 analyzes the enactment of chapter 808A in 1986 as well as the chapter's current language.⁷ Part II.B.2 discusses the only Iowa Supreme Court case that has interpreted chapter 808A since its enactment: *State v. Jones*.⁸ Finally, Part II.C explores school search rules that other states have implemented and that Iowa could use as models for changing chapter 808A.

In Part III, this Note analyzes Iowa Department of Education materials and describes two examples of suspicionless searches in Iowa schools: breathalyzer tests and metal detectors. It applies Iowa law to demonstrate that school administrators have overstepped legal bounds in student searches.⁹ The Part concludes that administering mandatory breathalyzers and using metal detectors in schools violate the language of chapter 808A if administrators require every student to undergo the search regardless of suspicion.¹⁰

Part IV proposes a partial solution to the problem. The Iowa General Assembly should respond to those parents who support broader searches of students by changing the law to allow metal detectors, while continuing to prevent mandatory random drug and alcohol testing.¹¹ Iowa citizens—including parents and school administrators—should encourage the General Assembly to review the language of chapter 808A.¹² While it is apparent that the General Assembly wishes to protect the privacy interests of students in public schools, it can easily change the language to allow for metal detectors but prohibit random drug testing and other random

warrant or meeting the standard of probable cause). It is beyond the scope of this Note to determine whether the Court's Fourth Amendment analyses are proper.

6. See *infra* Part II.B (describing the language of chapter 808A in its original form in the 1987 Code, as well as the most recent language in the 2007 Code).

7. See *infra* Part II.B.1 (describing the 1987 enactment of chapter 808A, the 2007 language of the chapter, and differences between the two versions).

8. *State v. Jones*, 666 N.W.2d 142 (Iowa 2003); see *infra* Part II.B.2 (analyzing the only case in which the Iowa Supreme Court has looked at the language of chapter 808A, how the court interpreted and applied the U.S. Supreme Court precedent, and the court's willingness to afford greater protection to students in Iowa's public schools).

9. See *infra* Part III.B (discussing a questionable search incident where administrators used a breathalyzer in an Iowa public school, how these searches hold up against the language of chapter 808A, and the possible reasons why these searches remain unchallenged).

10. See *infra* Part III.C (analyzing metal detectors and how courts will treat administrators' use of metal detectors in Iowa public schools).

11. See *infra* Part IV (proposing a minor change to chapter 808A of the Iowa Code to allow metal detectors in public schools but not mandatory, suspicionless drug testing of students).

12. See *infra* Part IV (arguing that the proper recourse for parents and other constituents who want school administrators to possess increased searching authority is to urge the General Assembly to act, rather than pushing administrators to conduct suspicionless searches in violation of chapter 808A).

searches. The change would protect students from the intrusions of those searches while simultaneously protecting the student body from the possible violence that could result from students freely bringing objects that they can use as weapons into public schools.¹³

The actions of school administrators are understandable, but ignoring the law is not the proper method.¹⁴ Administrators recognize that they are agents of the State of Iowa who have a certain level of responsibility to provide a safe and secure environment in their schools.¹⁵ Nevertheless, Iowa law prohibits suspicionless searches of students.¹⁶ Administrators cannot conduct these searches on the urging of a few parents; the proper recourse is for school officials to acknowledge the law's prohibitions and urge the Iowa General Assembly to change the language of chapter 808A. Current Iowa law prohibits suspicionless searches in schools, and citizens must follow the proper avenues for change instead of urging administrators to enact policies inconsistent with Iowa law. The General Assembly should rework the language of chapter 808A to specifically allow the use of metal detectors in public schools, but it should continue to disallow any other suspicionless searches of students.

II. LEGAL FOUNDATION OF SUSPICIONLESS SEARCHES OF STUDENTS

The Fourth Amendment of the U.S. 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" ¹⁷ In addition, the Iowa Constitution employs nearly identical language: "The right of the people to be secure in their persons, houses, papers and effects, against unreasonable seizures and searches shall not be violated" ¹⁸ The U.S. Supreme Court

13. See KeysToSaferSchools.com, School Violence 2007, <http://www.keystosaferschools.com/school%20violence%202007.htm> (last visited Mar. 30, 2009) (describing some reported incidents of violence in schools in 2007).

14. See *infra* Part III.B (indicating that parents and other societal pressures to implement these questionable policies often put administrators in difficult positions when it comes to protecting their students and following the law).

15. See *State v. Jones*, 666 N.W.2d 142, 150 (Iowa 2003) (referring to school administrators' "duty to educate students while also protecting them from numerous threats to that mission").

16. See IOWA CODE § 808A.2(1) (2007) ("A school official may search individual students and individual protected student areas if . . . [t]he official has *reasonable grounds* for suspecting that the search will produce evidence that a student has violated or is violating either the law or a school rule or regulation." (emphasis added)); see also Iowa Dep't of Educ., Student Searches, http://www.iowa.gov/educate/content/view/759/index.php?option=com_content&task=view&id=1161&Itemid=1 (last visited Feb. 18, 2009) (providing information to school administrators so that they may better understand and properly implement Iowa's specific student search-and-seizure rule).

17. U.S. CONST. amend. IV.

18. IOWA CONST. art. I, § 8.

has held, however, that states are able to convey more rights to their citizens than the U.S. Constitution conveys; the U.S. Constitution provides a baseline for civil liberties, but state laws can provide greater protections from government officials with regard to searches.¹⁹ The following Sections will show that the Iowa Code, in requiring that school searches be reasonably related in scope to the circumstances that give rise to the need for the search, provides greater protections for public-school students, in contrast to U.S. Supreme Court decisions that limit students' rights under the U.S. Constitution.²⁰

A. *LANDMARK SUPREME COURT DECISIONS: DIMINISHING
THE PRIVACY INTERESTS OF STUDENTS*

In the past few decades, the Supreme Court has decided cases that drastically limit students' rights by interpreting the Fourth Amendment to give students almost no privacy interest while on public-school property.²¹ Three landmark cases are often cited in determining Fourth Amendment rights: *New Jersey v. T.L.O.*,²² *Vernonia School District 47J v. Acton*,²³ and the most recent case, *Board of Education v. Earls*.²⁴ These cases recognized the special needs of school administrators in keeping students safe. In the balancing test of whether a search is reasonable, keeping students safe will often tip the scale in favor of school administrators.

New Jersey v. T.L.O. marked a turning point for the level of protection afforded to students with regard to their privacy rights in public schools. After a teacher in a New Jersey public school found a student smoking in a bathroom in violation of school rules, administrators searched her purse

19. See *California v. Ramos*, 463 U.S. 992, 1014 (1983) ("States are free to provide greater protections in their criminal justice system than the Federal Constitution requires."); accord *Arnold v. City of Cleveland*, 616 N.E.2d 163, 168 (Ohio 1993) ("[S]tates may not deny individuals or groups the minimum level of protections mandated by the federal Constitution. However, there is no prohibition against granting individuals or groups greater or broader protections."). See generally John C. Grugan, *The Pennsylvania Supreme Court's Continued Defense of Individuals from Coercive State Action—Commonwealth v. Matos*, 672 A.2d 769 (PA. 1996), 70 TEMP. L. REV. 1037 (1997) (describing how Pennsylvania has emerged as one of the states that grant greater protections to citizens from unreasonable searches and seizures through interpretation of its state constitution). But see *Jones*, 666 N.W.2d at 145 (stating that the Iowa Supreme Court follows the interpretation of the U.S. Supreme Court with regard to reasonable searches and seizures under the Iowa Constitution due to the similarity in language).

20. See § 808A.2(1)(a) (disallowing searches of students without reasonable suspicion).

21. For further information on how the U.S. Supreme Court has most recently interpreted and limited other basic constitutional rights such as students' freedom of speech in public schools, see *Morse v. Frederick*, 551 U.S. 393 (2007) (holding that a principal did not violate a student's right to free speech by confiscating a banner she reasonably viewed as promoting illegal drug use).

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

23. *Vernonia Sch. Dist. 47J v. Acton*, 515 U.S. 646 (1995).

24. *Bd. of Educ. v. Earls*, 536 U.S. 822 (2002).

and found a pack of cigarettes, marijuana, and a list of students who owed her money.²⁵ The issue before the Court was whether a search of a student's purse was reasonable under these circumstances.²⁶ The Court reversed the decision of the New Jersey Supreme Court, which had found the search of T.L.O.'s purse unreasonable.²⁷ The Court first concluded that the Fourth Amendment applies to searches by school officials, as the officials are acting as state officers in their capacity as public-school administrators.²⁸ The Court followed its precedent by not limiting the Fourth Amendment restrictions just to law-enforcement officers.²⁹ The Court rejected the reasoning of state courts that had held that school officials act "*in loco parentis*," such that Fourth Amendment restrictions did not apply.³⁰ It determined that since it had already recognized students' First Amendment right to free speech in public schools, the same reasoning would support applying the Fourth Amendment restrictions to school officials as well.³¹

The second issue the Court addressed was whether the search of the student's purse was unreasonable.³² The Court rejected the argument that schools are like prisons and declined to hold that students have no privacy interests while in school.³³ However, the majority determined that students' privacy interests are quite low when balanced against school administrators' need to maintain order and discipline in the school.³⁴ It concluded that "in recent years, school disorder has often taken particularly ugly forms."³⁵

The *T.L.O.* decision recognized students' privacy interests at school.³⁶ However, the Court also recognized the "special needs" of administrators in

25. *T.L.O.*, 469 U.S. at 328.

26. *Id.* at 332.

27. *Id.* at 333. The New Jersey Supreme Court agreed with the juvenile court that a warrantless search by a school official is reasonable and does not violate the Fourth Amendment if the school official has reasonable suspicion that the student is in possession of an illegal article or is involved in some illegal activity. However, the court determined that the search in question of T.L.O.'s purse did violate the Fourth Amendment because "the contents of T.L.O.'s purse had no bearing on the accusation against T.L.O., for possession of cigarettes . . . did not violate school rules, and a mere desire for evidence that would impeach T.L.O.'s claim that she did not smoke cigarettes could not justify the search." *Id.* at 331.

28. *Id.* at 334.

29. *See* *Camara v. Mun. Court*, 387 U.S. 523, 528 (1967) (holding that Fourth Amendment restrictions are applicable to building inspectors).

30. *T.L.O.*, 469 U.S. at 332 n.2, 336.

31. *Id.* at 336.

32. *Id.* at 337.

33. *Id.* at 338–39.

34. *Id.* at 341–42.

35. *T.L.O.*, 469 U.S. at 339.

36. *See id.* ("[S]choolchildren may find it necessary to carry with them a variety of legitimate, noncontraband items, and there is no reason to conclude that they have necessarily waived all rights to privacy in such items merely by bringing them onto school grounds.").

the public-school context and determined that a warrant would not be necessary to search a student; rather, “reasonable suspicion” is sufficient.³⁷ In the *T.L.O.* case, a teacher reported that the student was smoking in the lavatory; thus, the conclusion that the student possessed cigarettes was reasonable and provided reasonable suspicion to search her purse for cigarettes.³⁸ The Court’s decision relaxed restrictions on school administrators when determining what is “reasonable” by recognizing the “substantial” interest in maintaining order in schools.³⁹

While the Court in *T.L.O.* required that searches meet the reasonable-suspicion standard,⁴⁰ in *Vernonia School District 47J v. Acton*, the Court upheld an Oregon school-district policy that required urinalysis testing for every student who wished to participate in interscholastic athletics.⁴¹ The Court determined that student-athletes have even less of a privacy interest when “go[ing] out for the team” than all other students in the school (who, according to the *T.L.O.* decision, have less of a privacy interest than persons not in school).⁴² The Court noted that student-athletes must already subject themselves to privacy intrusions, such as when they change and shower in locker rooms.⁴³

Even though the student searches in *Vernonia* lacked individual suspicion, the Court noted that the school district may subject the student-athletes to mandatory urinalysis as long as the school district demonstrates a “compelling” interest, such as the need to maintain order and discipline in public schools and keep students safe.⁴⁴ The Court recognized that a serious drug problem had surfaced in the school district and that several student-athletes were part of the increasing influence of the drug culture in the schools.⁴⁵ Teachers noticed a drastic increase in classroom disruptions, and administrators responded by offering classes and speakers to deter drug use.⁴⁶ With support from parents, the school also implemented a drug-

37. *Id.* at 332 n.2.

38. *Id.* at 345–46.

39. *See id.* at 341 (“[T]he accommodation of the privacy interests of schoolchildren with the substantial need of teachers and administrators for freedom to maintain order in the schools does not require strict adherence to the requirement that searches be based on probable cause . . .”).

40. *T.L.O.*, 469 U.S. at 339.

41. *Vernonia Sch. Dist. 47J v. Acton*, 515 U.S. 646, 652–65 (1995).

42. *See id.* at 657 (discussing how school sports are not for “bashful” individuals because of the privacy that participants give up in communal locker rooms and medical tests).

43. *Id.*

44. *See id.* at 660 (citing *Skinner v. Railway Labor Executives’ Ass’n*, 489 U.S. 602, 628 (1989) (stating that the government had a compelling interest in testing workers for drugs in order to prevent railway accidents)).

45. *Id.* at 649.

46. *Vernonia*, 515 U.S. at 649.

testing program.⁴⁷ Balancing the students' privacy interest with the seriousness of the offense, the Court determined that the importance of deterring drug use outweighed the privacy interests of the student-athletes.⁴⁸ Despite the fact that there was no individualized suspicion, the search was still "reasonable" under the Fourth Amendment.⁴⁹

The case of *Board of Education v. Earls* followed the *Vernonia* standard in upholding a suspicionless drug-testing program in public schools.⁵⁰ The Court, in a 5–4 decision, determined that requiring all students who participated in competitive extracurricular activities to submit to urinalysis testing was reasonable in light of the school district's interest in preventing drug use among its students.⁵¹ The Court again recognized that there were circumstances of "special needs" in the context of public schools.⁵² The difference between this case and *Vernonia*, however, was that in *Vernonia* the Court recognized the specific special need of the Vernonia School District in curbing the drug problem in the district's schools and among the student-athlete population.⁵³ The *Earls* Court stated that it had "not required a particularized or pervasive drug problem before allowing the government to conduct suspicionless drug testing" and only noted that drug use among young people in general had increased since 1995.⁵⁴

The dissent in this case is important because it reflects the same reasoning underlying Iowa Code chapter 808A, which requires a stricter student-search standard in Iowa. While Justice Ginsburg concurred in the judgment of the *Vernonia* decision,⁵⁵ she wrote a strong dissent in *Earls*, pointing out major differences between the facts of *Vernonia* and *Earls*. While the *Vernonia* athletes were at the forefront of the "epidemic" drug culture at the school, there was not a comparably "major problem" in *Earls*.⁵⁶ While a

47. *Id.*

48. *Id.* at 664–65.

49. *Id.* The Court also noted that no parents objected to this districtwide program other than the couple before the Court.

50. *Bd. of Educ. v. Earls*, 536 U.S. 822, 830 (2002).

51. *Id.* at 834–36.

52. *Id.* at 829. This case seems to focus more on the general duty of school administrators to protect students from such a great potential harm as drugs while students are in the administrators' "temporary custody," as opposed to the *Vernonia* case where there was actually a visible drug problem in the schools.

53. *Vernonia*, 515 U.S. at 649.

54. *See Earls*, 536 U.S. at 834–35 ("Indeed, the nationwide drug epidemic makes the war against drugs a pressing concern in every school.").

55. *Vernonia*, 515 U.S. at 666 (Ginsburg, J., concurring).

56. *Earls*, 536 U.S. at 844 (Ginsburg, J., dissenting). Justice Ginsburg reasoned that the *Earls* case presented circumstances that were "dispositively different" from *Vernonia* because "[t]he *Vernonia* Court concluded that a public school district facing a disruptive and explosive drug abuse problem sparked by members of its athletic teams had 'special needs' that justified suspicionless testing of . . . athletes as a condition of their athletic participation." *Id.* She feared an overly broad intrusion into the privacy of public-school students, where in the future all

student may choose not to participate if he or she objects to the urinalysis-testing policy, Justice Ginsburg stated that extracurricular activities are such an integral part of the educational experience that choosing not to participate is often not an option.⁵⁷ Without a major drug problem in the school, Justice Ginsburg would weigh the balancing test in favor of the students' privacy interests, as would three of her fellow Justices.⁵⁸

The above three cases provide some guidance as to what constitutes a "reasonable" student search under the U.S. Constitution and how the privacy interests of students in public schools are greatly diminished for very important policy interests. While the Court still balances the privacy interests of students in public schools, the Court has generally declared that these rights are minimal compared to the safety concerns in public schools. These cases also help interpret the language of Iowa's student search-and-seizure law.⁵⁹ While the Court has declared warrantless and suspicionless searches reasonable in light of an administrator's need to keep the school safe, Iowa places greater restrictions on school officials when conducting searches since chapter 808A requires that searches be reasonable "in scope to the circumstances which gave rise to the need for the search."⁶⁰

B. THE EVOLUTION OF CHAPTER 808A OF THE IOWA CODE

1. Chapter 808A

Iowa's student search-and-seizure rule of chapter 808A of the Iowa Code codified a relaxed "reasonableness" standard for student searches, but chapter 808A limits the standard by requiring that searches be reasonable relating to the circumstances giving rise to the need for the initial search.⁶¹ It is important to compare Iowa's student search-and-seizure rule with the above Supreme Court decisions before analyzing the specific future contexts in which Iowa's rule will become important. The Iowa rule should not become as permissive as these Court decisions, yet a minor change would be beneficial.

The Iowa General Assembly enacted chapter 808A of the Iowa Code in 1986.⁶² The General Assembly has since amended the law,⁶³ but the original

students would be subject to searches without individualized suspicion when the "need" is great. *Id.*

57. *Id.* at 845. Justice Ginsburg seemed to state that a student who chooses not to participate in extracurricular activities in order to protest the drug-testing policy will miss out on an important educational experience. Thus, a student's consent to drug testing may not actually be entirely voluntary. *Id.*

58. *Id.* at 844-45.

59. *See infra* Part II.B (analyzing chapter 808A of the Iowa Code and identifying where the law is significantly more restrictive on administrators than the Fourth Amendment).

60. IOWA CODE § 808A.1(5) (2007).

61. *Id.*

62. IOWA CODE ch. 808A (1987).

legislation came in the wake of the *T.L.O.* case, which greatly reduced the privacy interests of students on public-school grounds.⁶⁴ Due to the timing, it seems that the General Assembly intended to codify some aspects of the *T.L.O.* decision into Iowa law and provide clear guidance to school administrators. It also seems that the General Assembly wished to extend certain extra protections to students in public schools, as many issues of privacy—such as the mandatory drug testing—were becoming more prevalent.

There are areas of chapter 808A that paralleled the Supreme Court decision in *T.L.O.* First, the chapter did not require a search warrant to conduct a search of a student; rather, it required only the minimal standard of “reasonable suspicion.”⁶⁵ However, the language was very clear with regard to searching a “student or a protected student area.” A “protected student area” was defined as the student’s body and objects such as the student’s clothing, backpack, duffel, or any other container for personal belongings and “in the possession or immediate proximity of the student.”⁶⁶ The school official must have had a “reasonable and articulable suspicion that a criminal offense or a school rule or regulation bearing on school order has been violated.”⁶⁷ The school official also needed a “reasonable and articulable belief that the search will produce evidence of such violation.”⁶⁸ Section 808A.2 also distinguished between a search of an individual student, in which case the reasonable suspicion must be particular to the student searched, and a search of more than one student, in which case the search must be conducted pursuant to a valid student-search rule.⁶⁹ For a search to be valid in either case, the search must have been reasonably related to the circumstances giving rise to the need for the search.⁷⁰

The General Assembly recognized that there may be times where a search of more than one student is necessary, but that the “student search rule [of the particular school] must be reasonable” and that there must be “information or suspicion which . . . warrant[s] the institution of a search.”⁷¹ As the Supreme Court had not yet decided *Vernonia* and *Earls*, the *T.L.O.* case was the main case from which the General Assembly could presume reasonableness.

63. IOWA CODE ch. 808A (2007).

64. See *supra* Part IIA (outlining the *T.L.O.* case and its impact).

65. IOWA CODE ch. 808A (1987).

66. *Id.* § 808A.1(4)(c).

67. *Id.* §§ 808A.2(1)(a)–(c).

68. *Id.* § 808A.2(1)(b).

69. *Id.* §§ 808A.2(1)(c)–(d).

70. §§ 808A.2(1)(c)–(d).

71. *Id.* § 808A.1(5)(c). While this enactment of the chapter did not require individualized suspicion to institute any search, it did require that there be some reasonable suspicion surrounding the circumstances of the search. *Id.*

The 2007 Iowa Code has retained the language regarding searches of a protected student area.⁷² There must be particular circumstances reasonably related to the institution of a search. For example, using a breathalyzer on all students before they enter the prom because students might drink before prom does not give rise to particular circumstances; however, if a group of students were actually acting in an intoxicated manner, that would most likely give rise to reasonable circumstances to use a breathalyzer on the group. The General Assembly retained the reasonableness requirement for searching students or a protected student area, and added “individual” in front of “student.”⁷³

The General Assembly also removed the section that stated, “[i]f the search is of more than one student or of a protected student area, the search must be based upon and pursuant to a valid and reasonable student search rule.”⁷⁴ While there is no direct evidence of legislative intent, the General Assembly had the opportunity to amend the chapter to require “reasonableness” in student searches following the landmark Supreme Court cases of *Vernonia* and *Earls*. However, the General Assembly only reworded the statute to state that “[a] student search rule, to be valid for purposes of this chapter, shall require that all searches of students or protected student areas be reasonably related in scope to the circumstances which gave rise to the need for the search.”⁷⁵ We can presume that the removal of the above language was intended to simplify the statute; searches of any student are valid if they are reasonably related in scope to the circumstances that give rise to the need for the search.

The revised statute only permits reasonable searches of a protected student area when there is reasonable suspicion that the suspected student violated or is in the process of violating a law or school regulation.⁷⁶ This language is both more permissive and more restrictive than the previous version; while the law no longer distinguishes between reasonable suspicion required for searches of individuals and that required for searches of groups, there is no ban on the search of groups of students as long as there are reasonable circumstances that give rise to the particular search.⁷⁷ Unlike *Earls*, where the Supreme Court held that mandatory drug testing of all

72. See IOWA CODE § 808A.2(1)(a) (2007) (“A school official may search individual students and individual protected student areas if . . . the official has reasonable grounds for suspecting that the search will produce evidence that a student has violated or is violating either the law or a school rule or regulation.”) The Iowa General Assembly removed the articulable requirement and combined the requirements that the public-school administrator must reasonably suspect a student is violating a law or regulation and that the administrator must reasonably suspect the search will produce evidence of said violation. *Id.*

73. *Id.*

74. IOWA CODE § 808A.2(1)(d) (1987).

75. IOWA CODE § 808A.1(5) (2007).

76. *Id.* § 808A.2(1)(a).

77. *Id.* § 808A.1(5).

students in extracurricular activities was reasonable, Iowa administrators will need some indication that, based on the circumstances, the student or students to be searched might be breaking the law or a school rule.⁷⁸

2. *State v. Jones*: The Iowa Supreme Court Recognizes
a Privacy Interest in Lockers

The Iowa Supreme Court had the chance to interpret aspects of chapter 808A in the case of *State v. Jones*.⁷⁹ In this case, administrators acting pursuant to school-board regulations conducted an end-of-term locker cleanout, informing the students in advance.⁸⁰ The administrators conducted the search to help maintain the school's supplies such as library books.⁸¹ Student Jones left a coat in a locker that held marijuana.⁸² The Iowa Supreme Court then had the opportunity to determine whether the cleanout of all school lockers was reasonable.⁸³

The Iowa Supreme Court typically interprets the Iowa Constitution as consistent with federal interpretations of the Fourth Amendment because the language is so similar.⁸⁴ The Iowa Supreme Court decided that students do have a minimal expectation of privacy in the contents of their lockers.⁸⁵ Since the random locker search paralleled the random searches in the *Vernonia* and *Earls* cases, the locker cleanout was a reasonable search.⁸⁶ There was no suspicion in this case, but this was a locker search and not a search of a student or protected student area, a type of search that requires a higher standard of reasonableness under chapter 808A.⁸⁷

This case is helpful in that it provides some insight into how the Iowa Supreme Court might rule if faced with a challenge under chapter 808A. Chapter 808A's allowance of suspicionless locker-cleanout searches fits well with the U.S. Supreme Court test of "reasonableness," while the limitation of searching a "protected student area," is more restrictive on administrators.⁸⁸ The Iowa Supreme Court took the extra step to recognize a student's privacy interest in his or her locker, but without applicable precedent, it is difficult to determine what types of random searches of a protected student area

78. *Id.*

79. *State v. Jones*, 666 N.W.2d 142 (Iowa 2003).

80. *Id.* at 144.

81. *Id.*

82. *Id.* at 149.

83. *Id.* at 150.

84. *Jones*, 666 N.W.2d at 145 (citing *State v. Breuer*, 577 N.W.2d 41, 44 (Iowa 1998)).

85. *Id.* at 146, 150.

86. *Id.*

87. IOWA CODE § 808A.1(5) (2007).

88. *Id.* § 808A.1(1) (defining a protected student area as "includ[ing], but . . . not limited to" a student's body, clothing, pocketbook, duffel bag, and bookbag).

would be allowed. Part III will address the circumstances in which searches of protected student areas may be unreasonable.⁸⁹

C. LEGISLATIVE ACTION NATIONWIDE

1. Similar Statutes in Other States

Several states have statutes that outline their expectations for public-school administrators when the administrators find it necessary to conduct a search of a student.⁹⁰ Louisiana provides for random searches using metal detectors.⁹¹ Maryland has a statute that permits school officials to search students but requires that these officials go through training to learn how to conduct these searches.⁹² Tennessee has perhaps the most permissive statute, stating that the legislative intent of its School Security Act⁹³ is “to extend further, rather than limit, the authority of principals and teachers to secure order and provide protection of students within each school.”⁹⁴ This Act also permits the use of both stationary and handheld metal detectors: “[M]etal detectors . . . designed to indicate the presence of dangerous weapons, drug paraphernalia or drugs may be used in searches, including hand-held models . . . and students, visitors, containers and packages may be required to pass through a stationary detector.”⁹⁵

A principal difference between these statutes and chapter 808A in the Iowa Code is that chapter 808A contains an exclusionary rule that suppresses evidence obtained unlawfully during a search prohibited by the chapter.⁹⁶ In potential changes to chapter 808A, the Iowa General Assembly should maintain the statute’s strength by retaining the exclusionary provision. The General Assembly, however, could learn from the models of other states and add more specific language on search procedure for metal detectors.

2. The U.S. Congress Attempts to Act

In May of 2006, the 109th Congress decided to weigh in on the issue of student searches by introducing House Bill 5295, the Student and Teacher

89. See *infra* Part III.B–C (discussing mandatory breathalyzers at a high-school prom in one Iowa public school and the potential use of metal detectors in Iowa public schools in the near future).

90. States such as Tennessee, Virginia, Oklahoma, Minnesota, Maryland, and Louisiana have rules that outline administrative procedures in conducting searches in public schools, specific searches that are either permissible or impermissible, objectives of the searches, and specific standards of reasonableness.

91. LA. REV. STAT. ANN. § 17:416.3(A)(2)(b) (2007).

92. MD. CODE ANN., EDUC. § 7-308(b)(2) (2008).

93. TENN. CODE ANN. § 49-6-4201 (1981).

94. *Id.* § 49-6-4203(c).

95. *Id.* § 49-6-4207.

96. IOWA CODE § 808A.4 (2007).

Safety Act of 2006.⁹⁷ The proposed Act would actually require school districts to initiate searches of “any minor student” acting on “any reasonable suspicion.”⁹⁸ The Act would deny Safe and Drug Free School funds to local educational agencies that fail to comply with the Act.⁹⁹

This Act is seemingly benign as it appears to codify the existing U.S. Supreme Court case law, citing the *T.L.O.* and *Earls* cases.¹⁰⁰ The Act states that “[e]ach local educational agency shall have in effect throughout the jurisdiction of the agency policies that ensure that a search described in subsection (b) is deemed reasonable and permissible.”¹⁰¹ Searches that subsection (a) authorizes include:

[A] search by a full-time teacher or school official, acting on any reasonable suspicion based on professional experience and judgment, of any minor student on the grounds of any public school, if the search is conducted to ensure that classrooms, school buildings, school property and students remain free from the threat of all weapons, dangerous materials, or illegal narcotics.¹⁰²

However, the holding in *Earls* merely declared the mandatory drug testing in one individual school district to be reasonable.¹⁰³ The holding did not forbid states from affording greater protections to their respective public-school students.¹⁰⁴

If the Act passes, its significance for Iowa is that it would void Iowa Code chapter 808A where chapter 808A prohibits suspicionless searches.¹⁰⁵ The Act’s language draws upon U.S. Supreme Court holdings and requires school districts to put in place search rules that coincide with these holdings.¹⁰⁶ In addition, the proposed Act lacks chapter 808A’s language

97. Student and Teacher Safety Act of 2006, H.R. 5295, 109th Cong. (2006). The House of Representatives passed the Act in September of 2006, but the Senate did not consider the Act before the end of the session. Representative Mark Kirk reintroduced the same version of the Act in August of 2007. Student and Teacher Safety Act of 2007, H.R. 3291, 110th Cong. (2007).

98. H.R. 3291; H.R. 5295.

99. H.R. 3291; H.R. 5295.

100. H.R. 3291; H.R. 5295. The Act includes the holdings of the *T.L.O.* and *Earls* cases in the “Findings” section.

101. H.R. 3291; H.R. 5295.

102. H.R. 3291; H.R. 5295.

103. *Bd. of Educ. v. Earls*, 536 U.S. 822, 829 (2002).

104. *Id.* at 830; *see also supra* note 19 and accompanying text (describing how states can give more rights to their citizens than the U.S. Constitution and the U.S. Supreme Court interpretations provide).

105. *See* IOWA CODE § 808A.1(5) (2007) (stating that for a student-search rule to be valid, it must require all “searches of students or protected student areas be reasonably related in scope to the circumstances which gave rise to the need for the search”).

106. *See* H.R. 3291 (stating that school districts must enact policies that consider reasonable any search of any student based on any reasonable suspicion); H.R. 5295 (same).

requiring reasonable suspicion of an “individual” student.¹⁰⁷ This language follows more with the landmark Supreme Court decisions that allow for mandatory drug testing of students under the suspicion that one unidentified student may be using drugs.¹⁰⁸ Disregarding any constitutional challenges to the Act, it would put the protections of chapter 808A that public-school students currently enjoy in jeopardy.

III. STUDENT SEARCHES CONDUCTED BY IOWA ADMINISTRATORS

Chapter 808A disallows searches that lack reasonable suspicion, but recently some administrators have ignored this restriction.¹⁰⁹ Part III.A describes the notices that the Department of Education provides to administrators. These notices demonstrate that Iowa administrators are aware of the restrictions on their ability to search students. Yet administrators sometimes go too far, as instances of suspicionless breathalyzer searches have shown. Inserting a narrow exception to Iowa’s prohibition on suspicionless searches would allow administrators to search for weapons with metal detectors within the bounds of the law.

A. NOTICE AND INSTRUCTION FOR ADMINISTRATORS IN IOWA PUBLIC SCHOOLS

The Iowa Department of Education published instructional materials on its website to aid administrators in interpreting chapter 808A and enforcing it in schools.¹¹⁰ These materials indicate that administrators should be aware of the rules and regulations, but they are not always paying close attention to how they should conduct searches of students.

The Iowa Department of Education’s website provides a clear interpretation of the language of chapter 808A for Iowa teachers and administrators. First, the webpage instructing teachers on chapter 808A mentions *Earls* and states that the suspicionless drug testing is “permissive, not mandatory.”¹¹¹ It continues to mention that “Chapter 808A prohibits all suspicionless searches.”¹¹² The instructional webpage also recognizes that many situations involve a grey area of interpretation.¹¹³ In order to aid in

107. See § 808A.2 (stating that administrators may conduct searches of individual students and individual protected student areas).

108. See *Earls*, 536 U.S. at 830 (allowing mandatory drug testing of students wishing to participate in extracurricular activities because of the dangers of using drugs); *Vernonia Sch. Dist. 47J v. Acton*, 515 U.S. 646, 665 (1995) (allowing drug testing of student-athletes because the athletes were the “leaders” in drug use at the school).

109. See *infra* Part III.B–C (describing the use of breathalyzers at a school in Iowa and the metal detectors that schools may use in the future).

110. Iowa Dep’t of Educ., *supra* note 16.

111. *Id.*

112. *Id.*

113. See *id.* (acknowledging that there is still a gray area regarding random locker searches due to the discrepancy between the language of chapter 808A and the Iowa Supreme Court’s decision in *State v. Jones*).

the interpretation, the Department of Education provides situational examples of “reasonable” and “unreasonable” searches and what could constitute “reasonable suspicion.”¹¹⁴ One such example on the webpage reads as follows:

Community concern about teenage and adolescent illegal drug usage is heightened following the drug-induced suicide of a local youth. This does not present reasonable grounds to conduct a search for drugs. Whether school officials could pre-announce a locker and/or desk search and then conduct the same should be discussed with the school’s attorney.¹¹⁵

The webpage elaborates by stating:

Yes, the U.S. Supreme Court has upheld the searching of students who were drug tested (which is a search) for no other reason than they participated in extracurricular activities. But those rulings—*Vernonia School Dist. 47J v. Acton* and *Board of Education of Independent School District No. 92 of Pottawatomie County v. Earls*—are permissive, not mandatory. More importantly, they permit this limited type of suspicionless search only where state law does not prohibit it. *Chapter 808A prohibits all suspicionless searches.*¹¹⁶

Considering the detailed materials that the Iowa Department of Education has given to school administrators to inform them about student search-and-seizure law, the school administrators must have been aware of Iowa law in the instances outlined below where they carried out suspicionless searches.¹¹⁷

B. THE MANDATORY BREATHALYZER

With administrators put on notice of the law, it is surprising that some public schools have at times instituted mandatory, suspicionless searches of students at school and at school-sponsored events in order to carry out their mission of maintaining a safe learning environment. It is not surprising, however, that with parents and students put on notice of the law, very few, if any, parents and students challenge these searches.¹¹⁸

In May 2007, Urbandale High School in Urbandale, Iowa, administered breathalyzer tests to all students before they could enter the high school

114. *Id.*

115. Iowa Dep’t of Educ., *supra* note 16.

116. *Id.*

117. *See supra* notes 16, 110–16 and accompanying text (giving examples of informative materials that the Iowa Department of Education publishes for school leaders).

118. *See infra* Part III.B (describing the perception that in Iowa, parents would rather have administrators conduct suspicionless searches out of concern for their children’s safety).

prom.¹¹⁹ Every student passed the breathalyzer test.¹²⁰ Principal Richard Hutchinson stated: “Our whole goal is we want young adults to come to our events, but we don’t want them there under the influence of alcohol. It’s unfortunate, but we feel this was a step we needed to take.”¹²¹ West Des Moines Valley High School also administered breathalyzer tests at prom in 2007.¹²² The decision to administer breathalyzers was met with support from many parents, indifference among most students, and public dissent came only from the editorial staff of the *Des Moines Register*.¹²³

The editorial staff of the *Des Moines Register* is most likely correct in their critical legal assessment of chapter 808A and the *Jones* case.¹²⁴ Following these breathalyzer incidents, the Iowa Department of Education stated on its website:

Some school officials new to Iowa may have come from a state where suspicionless, random breath testing of students by school officials is legal. In Iowa, such testing is prohibited by Iowa Code chapter 808A, the Student Search and Seizure Law. It is a violation of chapter 808A to subject all students to a breathalyzer as a condition of entry into a school activity such as a dance or athletic contest.¹²⁵

Again, chapter 808A does not allow for a suspicionless search of students or a protected student area.¹²⁶ Moreover, chapter 808A only allows periodic inspections of multiple desks, lockers, or other school-owned spaces.¹²⁷ Supporters of mandatory breathalyzers, metal detectors, and other random, suspicionless searches tend to analogize these searches to the mandatory inspection of all persons going through airports or entering public buildings.¹²⁸ This reasoning is logical because students are entering a

119. Editorial, *Blanket Alcohol Tests Violate Privacy Rights*, DES MOINES REG., May 10, 2007, at 16A [hereinafter *Blanket Alcohol Tests*].

120. *Id.*

121. *Id.* (internal quotation marks omitted).

122. Fajen Micholyn, *Valley, Dowling Catholic Set for Prom*, DES MOINES REG., May 1, 2007, available at LEXIS, News Library, DESREG File.

123. *Blanket Alcohol Tests*, *supra* note 119.

124. See generally Iowa Dep’t of Educ., *supra* note 16 (outlining Iowa’s policy regarding breathalyzers).

125. *Id.*

126. IOWA CODE § 808A.2(1) (2007). For example, administering a suspicionless breathalyzer because students may drink before prom is not a particular circumstance; however, if a group of students were actually acting in an intoxicated manner, administrators may breathalyze those suspected students acting in an intoxicated manner.

127. *Id.* § 808A.2(2).

128. See Robert S. Johnson, *Metal Detector Searches: An Effective Means to Help Keep Weapons out of Schools*, 29 J.L. & EDUC. 197, 200 (2000) (mentioning how people have become accustomed to metal detectors at many locations and that metal detectors are not a more intrusive search than mandatory drug testing).

public building where there are many other students and where safety is of a heightened concern due to prevalence of the drugs and alcohol at high-school proms. However, the plain language of chapter 808A is clear: “A student search rule . . . shall require that all searches of students or protected student areas be reasonably related in scope to the circumstances which gave rise to the need for the search”¹²⁹ The Iowa General Assembly likely intended to protect students from mandatory urinalysis testing as a condition for participating in athletics or extracurricular activities by leaving the language prohibiting suspicionless searches intact after the *Earls* case. It follows that the General Assembly did not intend for suspicionless breathalyzer tests either.

While the ACLU of Iowa mentioned that the organization would be interested in speaking with concerned parents regarding the legality of the breathalyzer test, it seems unlikely that parents will challenge the breathalyzer tests.¹³⁰ With the concerns of underage drinking and drunk-driving accidents on prom night, parents seem willing to subject their children to suspicionless searches.¹³¹

C. THE FUTURE OF METAL DETECTORS IN IOWA PUBLIC SCHOOLS

In September 2007, Senators Harkin and Grassley of Iowa announced that they had helped secure federal funding for increased security measures in Iowa public schools, including the use of metal detectors.¹³² While the increased measures could be a positive move for Iowa, the current language of chapter 808A most likely prohibits using metal detectors for any other purpose than to search students that administrators reasonably suspect of violations.¹³³

129. § 808A.1(5).

130. Posting of Rebecca Herold to Realtime Community, The Importance of Policies . . . Breathalyzer = Drug Test = Physical Search = 4th Amendment Violation?: Iowa High School Students Given Breathalyzer Tests at the Prom, http://www.realtime-itcompliance.com/privacy_and_compliance/2007/05/the_importance_of_policiesbrea.htm (May 10, 2007, 7:37 PM) (recognizing the strong legal argument of the *Des Moines Register* editorial board, but mentioning that the ACLU is unlikely to hear from any Urbandale parents, as they were the individuals usually pushing for breathalyzer tests).

131. See RALPH C. MARTIN, AM. BAR ASS'N, ZERO TOLERANCE POLICY (2001), <http://www.abanet.org/crimjust/juvjus/zerotolreport.html> (citing Margaret Graham Tebo, *Zero Tolerance, Zero Sense*, 86 A.B.A. J. 40, 41 (Apr. 2000) (stating that although schools are generally safer now than in the past, parents are demanding stricter policies in schools)).

132. Press Release, Sen. Tom Harkin, Harkin Announces Over \$420,000 to Improve School Safety in Iowa (Sept. 6, 2007), available at <http://harkin.senate.gov/pr/p.cfm?i=282097>; Press Release, IowaPolitics.com, U.S. Sen. Grassley: \$420,097 to Iowa for Enhanced School Safety (Sept. 6, 2007), available at <http://www.iowapolitics.com/index.iml?Article=104190>.

133. § 808A.1(5).

1. Background on Metal Detectors

Metal detectors in Iowa public schools pose many unique issues that implicate administrative procedure as well as areas of criminal law. First, the Fourth Amendment applies to administrative searches since school officials serve as agents of the government.¹³⁴ Second, metal detectors in certain public places—airports, for example—are administrative searches that are subject to the test of “reasonableness” and do not require a warrant.¹³⁵ Metal detectors on public premises for purposes of security are permissible because when an individual goes through the metal detector, he or she consented to the search.¹³⁶ In addition, if patrons entering premises know or can assume that there will be metal detectors, they have the opportunity to avoid the search by avoiding the location.¹³⁷ This argument is difficult to apply to students entering the grounds of a public school because students do not have a choice of whether to attend school. Attendance is mandatory, and while consequences vary among schools, there are always consequences for not attending, such as suspension or removal of privileges.¹³⁸ However, metal detectors in public schools are most likely reasonable when every student is required to pass through them but are still not allowed under chapter 808A.¹³⁹ The problem in Iowa is that chapter 808A makes it illegal to use metal detectors in schools without suspicion.

2. Metal Detectors in the Context of Chapter 808A

Apart from chapter 808A, using metal detectors in Iowa public schools to search every student entering a school building is most likely reasonable under the U.S. Constitution and therefore the Iowa Constitution. The U.S. Supreme Court has already upheld more intrusive searches, such as suspicionless drug testing for students participating in any extracurricular

134. See *Michigan v. Tyler*, 436 U.S. 499, 504–05 (1978) (“[T]he ‘basic purpose of this Amendment . . . is to safeguard the privacy and security of individuals against arbitrary invasions by governmental officials.’” (quoting *Camara v. Mun. Court*, 387 U.S. 523, 528 (1967))).

135. See *United States v. Aukai*, 497 F.3d 955, 960–61 (9th Cir. 2007) (holding an airport x-ray and metal-detector search reasonable once the defendant attempted to enter the secure airport area); *United States v. Hartwell*, 436 F.3d 174, 178–79 (3d Cir. 2006) (determining that a search of the defendant was reasonable under the administrative-search doctrine, which considers the gravity of public concern and the public interest).

136. *Aukai*, 497 F.3d at 960–61 & n.6 (stating that a passenger can elect not to fly in order to avoid the airport, but once a passenger attempts to enter the airport’s secure area, searches are reasonable).

137. See *State v. Carter*, 267 N.W.2d 385, 387 (Iowa 1978) (holding that search of defendant violated the Fourth Amendment because there was not sufficient notice to defendant that he should expect to be searched upon his entrance to the premises).

138. W. DES MOINES CMTY. SCH. DIST., 2008–09 VALLEY HIGH SCHOOL FAMILY-STUDENT HANDBOOK 25–26 (2008), available at <http://www.wdm.k12.ia.us/valley/pdf/handbook.pdf>.

139. See *infra* Part III.C.2 (applying chapter 808A to the future use of metal detectors in Iowa public schools).

activity, as reasonable exercises of administrators' duty to maintain a safe and secure learning environment.¹⁴⁰ In addition, preventing weapons from entering public schools tends to be of greater importance to maintaining a safe learning environment because of the immediate and serious danger that weapons pose to students.

Chapter 808A prohibits the indiscriminate use of the metal detectors. Metal detectors are considered searches under the Fourth Amendment; although they are typically permissible when based on the individual's consent, the language of chapter 808A does not allow any random, suspicionless use of the metal detectors. While suspicionless metal-detector searches are most likely constitutional, chapter 808A requires reasonable suspicion under the circumstances and would therefore most likely allow administrators to use the metal detectors only when they had a reasonable suspicion that a particular student planned to bring a weapon to school or possessed a weapon on school grounds.¹⁴¹

IV. A PROPOSED AMENDMENT TO CHAPTER 808A

In order to resolve parents' and administrators' concerns over safety and the public pressure to implement stricter search rules, the Iowa General Assembly should rework chapter 808A in two ways. First, it should retain the law's current protections as a criminal-procedure rule. Second, it should incorporate aspects of other states' administrative rules to include a provision allowing metal detectors. Even after *Vernonia* and *Earls*, cases that allowed suspicionless student drug testing when the greater interest of student safety was threatened, the Iowa General Assembly retained chapter 808A's requirement that searches be reasonably related to the circumstances that give rise to the need for the search.¹⁴² While those cases only addressed drug-test situations, metal detectors will be the issue of the future. When a school metal-detector case comes before the U.S. Supreme Court, the Court will likely rely on *Vernonia* and *Earls* to hold that mandatory metal-detector searches are "reasonable" in public schools without individualized suspicion due to the interest in maintaining safety.¹⁴³ While the Iowa General Assembly reasonably wants to protect students' privacy rights, students bringing weapons to school is a much more serious issue that poses an

140. See *supra* Part II.A (describing the landmark Supreme Court cases that have balanced the privacy interests of students with the need for administrators to maintain safety in their schools and have come out in favor of the administrators).

141. See IOWA CODE § 808A.1(5) (2007) (defining "student search rule" to include a provision requiring that searches be "reasonably related" to the circumstances and based upon consideration of enumerated factors).

142. Chapter 808A retained the requirement for reasonable suspicion following the *Vernonia* and *Earls* decisions. Compare *id.* § 808A.1(5) (1997), with *id.* § 808A.1(5) (2003).

143. See *supra* Part II.A (discussing the landmark Supreme Court cases that balanced students' privacy interests and the need for safety in public schools).

immediate concern—as anyone can see from the tragedy at Columbine High School and other school shootings.¹⁴⁴ Public-school administrators should not conduct searches without reasonable suspicion, but only because Iowa law forbids it; parents must also understand that pressuring administrators to conduct a search contrary to the law is not the proper avenue to protect their children.

The General Assembly should amend chapter 808A to allow administrators to use metal detectors in public schools. Parents urge administrators to employ more strict disciplinary measures and random searches, but chapter 808A does not permit these policies.¹⁴⁵ It is important that there be a clear legal basis for the blanket use of metal detectors to prevent administrators from having to make the tough decision between following the law and following pressures from parents. The General Assembly should address the issue of metal detectors to avoid any possible confusion over whether the blanket use of metal detectors complies with chapter 808A.

The General Assembly does not need to repeal chapter 808A or write a law that fits the U.S. Supreme Court's Fourth Amendment analysis for student searches. The ideal change to chapter 808A is to continue requiring reasonable suspicion in light of the circumstances, but to add an exception for suspicionless metal-detector searches in schools. The only area where the reasonable-suspicion standard may not be as effective is in the search for weapons; factors leading to a reasonable suspicion that a student possesses a weapon may not be as apparent, yet the results of the use of a weapon in school are immediate and much more devastating than the use of drugs.

Even though students do not necessarily consent to passing through the metal detectors, in “reasonable” suspicionless searches they would not be required to give consent so long as they knew of the search in advance, which gives them notice to leave items of a sensitive nature away from school. This solution is more in line with the current stance of chapter 808A, which prohibits suspicionless searches that *Earls* deemed reasonable, and expands the statute in a limited manner. Although some would argue that metal detectors are not a limited expansion in the statute, metal detectors are still much less intrusive than searches such as mandatory drug testing for students involved in extracurricular activities. Metal detectors are present in airports and public buildings; they are not so uncommon that students are not generally accustomed to them. Using metal detectors to protect students from the immediate danger that weapons pose would not create an air of distrust as much as would requiring students to submit to urinalysis testing. A test involving bodily fluids, as opposed to a search that detects metal

144. *Timeline of School Shootings*, U.S. NEWS & WORLD REP., Feb. 15, 2008, <http://www.usnews.com/articles/news/national/2008/02/15/timeline-of-school-shootings.html>.

145. *See supra* Part III.B (discussing administrators' actions that contradict chapter 808A).

objects on the person, is much more intrusive upon a student's privacy. While a permissive statute would still be reasonable under the U.S. Supreme Court's analysis of reasonable searches, considering Iowa's student-search rule has been so restrictive for several years, it does not seem an ideal situation to expand the statute so drastically by removing the language that requires a search be reasonably related to the circumstances giving rise to that search. The spirit of Iowa's statute recognizes that the search in *Earls*—mandatory drug testing for all students wishing to participate in competitive extracurricular activities—is intrusive and not necessary when there is no suspicion of a drug problem.

V. CONCLUSION

The safety of students in public schools should always be a public concern, not just a parental concern. The proposed change to chapter 808A outlined above will protect students from immediate danger by helping to reduce the likelihood that a student can bring a weapon into a school. On the other hand, privacy concerns remain, and Iowa should continue to prohibit suspicionless drug testing of public-school students. The lowered standard of reasonable suspicion still permits school administrators to perform a wide range of searches, such as using breathalyzers at prom if they witness a student behaving in a manner that would lead them to reasonably believe that student is intoxicated. For this reason, the Iowa General Assembly should amend chapter 808A to remove the reasonable-suspicion requirement for school metal-detector searches.