



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF EDUCATION

June 8, 2016

Honorable Don White
Senate Box 203041
286 Main Capitol Building
Harrisburg, PA 17120

Dear Senator White:

This letter is in response to your request for an interpretation by the Department of Education (PDE) of 18 Pa.C.S. § 912: Possession of weapon on school property, for the purposes of determining whether school administrators, teachers, or other staff are currently permitted to carry firearms on school premises. I very much appreciate you reaching out to me on this issue, as well as your advocacy for the safety of Pennsylvanian students and school district personnel.

Section 912 of the Crimes Code is a criminal statute that generally prohibits the possession of a weapon on school property. The exception to this general prohibition is if the weapon is possessed for a "lawful purpose." As noted in your correspondence, the term "lawful purpose" is not statutorily defined, nor has the term ever been defined by the courts. This topic has been raised several times to PDE in recent years, and while PDE is always re-examining ways to ensure the safety of students and school district personnel, the agency does not have the authority to interpret criminal statutes. The Attorney General and local District Attorneys are those legally responsible for interpretation of these statutes, including the meaning of "lawful purpose" as they would undertake the prosecution of individuals for violations.

Related to a concealed carry permit, Section 6109 of the Crimes Code, 18 Pa.C.S § 6109, governs licenses to carry firearms concealed on or about one's person or in a vehicle through the Commonwealth. During the summer of 2012, the Pennsylvania State Police's Office of Chief Counsel undertook a detailed analysis of the current provisions of section 6109. The analysis concluded that a Commonwealth Agency cannot rely on section 6109 to enact a policy in which an individual with a concealed weapons license could lawfully possess a firearm on school property. In fact, there is no positive authority which supports the proposition that a concealed weapon permit issued under section 6109, by itself, constitutes a "lawful purpose" that would allow an individual to

lawfully possess a weapon on school property pursuant to section 912 of the Crimes Code, 18 Pa.C.S. § 912.

To be concise, PDE's opinion is that the scope of "lawful purpose" is unclear and unsettled, especially as it relates to school employees and parents (or citizens) possessing a weapon on school property. Unfortunately, we cannot provide further legal clarification as PDE lacks the authority to interpret criminal statutes.

Please understand that I truly sympathize with the intent of your request, and I very much appreciate your efforts toward ensuring the safest educational environment possible for Pennsylvanian students, teachers, and other school district personnel.

Again, thank you for reaching out. If you have additional questions or concerns, please do not hesitate to contact my office.

Sincerely,

A handwritten signature in black ink, appearing to read "Pedro Rivera II", written in a cursive style.

Pedro A. Rivera II
Secretary of Education

June 9, 2016

Mr. Douglas Steve
President, Indiana Area School Board
501 East Pike
Indiana PA 15701

RE: School Security

Dear Mr. Steve:

As a result of the recent school tragedies that have occurred within the Commonwealth of Pennsylvania and across the United States, there is a national debate on whether school boards should allow their employees to carry firearms. I have been asked whether Pennsylvania law gives local school boards the authority to arm administrators, teachers, or other support staff.

In Pennsylvania, we have 18 Pa C.S.A §912 Possession of Weapon on School Property which makes possession of an offense under this section a misdemeanor of the first degree. Section C provides a defense to this section which states "It shall be a defense that the weapon is possessed and used in conjunction with a lawful supervised school activity or course or is possessed for other lawful purpose."

I believe that this section would give your board the appropriate protection in that it would be a lawful supervised school activity or could be considered for other lawful purpose. I believe that protecting our children would clearly qualify as "other lawful purpose".

It is time that we recognize the unfortunate choices presented to our teachers, which at this time is little more than locking the door and diving in front of bullets. We know that in an active shooter situation time is a critical factor, the sooner a person neutralizes an assailant the more lives will be saved. Police response times range in the 5-10 minute range for most school buildings in your district but honestly it will be far longer as the units have to assess the situation before entering your buildings, having someone inside is critical.

There are many worthy training programs available for your staff and I highly encourage you to explore this option along with many of the other security initiatives Indiana Area has undertaken to protect our children. This is not to force teachers or support staff to carry on school grounds this is meant to allow those individuals who are ready, willing and able to be properly trained in this area and help provide another level of security to our students.

Make no mistake this should not be done lightly or halfhearted, it will need to have a full policy put into place to ensure that only qualified individuals are armed within your buildings and follow a regimen for updates on a regular basis.

For as long as I remember, schools have held fire drills on a regular basis and we never hear of children dying as a result of fires in schools. It is time to enable educators to protect their students with more than a door lock and a ruler. I am respectfully asking that you consider allowing your staff to be armed after an appropriate policy and training program are undertaken. If I can be of any assistance, please let me know.

Very truly yours,

Patrick Dougherty
District Attorney

PD/dlr