



December 1, 2015

POSSESSION OF A CONCEALED FIREARM ON SCHOOL GROUNDS (K-12) AFTER SB 707

Possession of a firearm on school grounds is governed by Penal Code section 626.9 which is known as the Gun Free School Zone Act (Act). Among other things, the Act made it unlawful to possess a firearm on school grounds and also within 1,000 feet of school grounds without first obtaining the express written permission of the district superintendent, his or her designee, or equivalent school authority. A large number of exceptions to this prohibition are contained in the Act. One exception applies to adults who hold a Carry Concealed Weapon (CCW) license. In the past, such persons were not prohibited by the Act from carrying a concealed firearm on school grounds.

Prior to SB 707, there was no law or regulation which made carrying a concealed handgun on school grounds by CCW license holders unlawful or illegal. On the other hand, neither was there any law or regulation which gave CCW license holders a “right” to carry a concealed handgun on school grounds. Consequently, CCW license holders could be restricted from bringing a concealed firearm on campus by a policy of the governing board or at the discretion of the superintendent in the absence of a pertinent board policy.

SB 707, signed into law by the Governor on October 10, 2015, effective January 1, 2016, revised the Act in several particulars. In regard to K-12 schools and CCW license holders, they may continue to carry a concealed firearm within 1,000 feet of a school. But, it is now unlawful for a CCW license holder to carry a concealed firearm on school grounds unless the license holder has obtained the express written permission of the district superintendent. Note that the governing board may adopt a policy regarding the circumstances in which the superintendent may authorize CCW license holders to carry a concealed firearm on campus.

So if in the past janitors, teachers, administrators, board members or parents holding a CCW license have entered on school grounds carrying a concealed firearm, their actions in doing so were lawful. But, permission to do so could be denied. Employee discipline or trespass law could be used to enforce such a directive. After January 1, 2016, janitors, teachers, administrators,

board members and parents who hold a CCW license are acting unlawfully if they carry a concealed firearm on school grounds, unless they first obtain the express written permission of the district superintendent.

The district superintendent may authorize him/herself or a school principal to carry a concealed firearm on campus if he/she holds a valid CCW license. The district superintendent may authorize board members who hold a CCW license to carry a concealed firearm on school grounds as well. In both instances, the grant of permission must be express and in writing. It is advisable that the governing board authorize the district superintendent to take such action.

Penal Code sections 25100-25225 address how a firearm may or may not be stored at school. Those provisions criminalize the storage of a firearm if it is likely a child could access the firearm without permission and the child uses the firearm to injure someone. However, the statutory scheme also precludes a gun owner from criminal liability if the firearm is stored in a locked container or in a location that a reasonable person would believe to be secure. A trigger lock will also protect the gun owner from criminal liability for negligently storing a firearm.

If you have any questions concerning this or related issues or need assistance with drafting an appropriate Board policy regarding SB 707, do not hesitate to contact our office.

— Alan B. Harris

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