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POSSESSION OF A CONCEALED FIREARM ON SCHOOL GROUNDS (K-12) AFTER AB 424

As of January 1, 2018, school officials may no longer authorize persons who hold a “concealed carry weapons” (CCW) license to carry a firearm on school grounds (K-12) and CCW holders may no longer do so.

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Since 1995, possession of a firearm on school grounds has been governed primarily 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 within 1,000 feet of school grounds without first obtaining the express written permission of the school district superintendent, his or her designee, or equivalent school authority.

A large number of exceptions to this prohibition were contained in the Act or added over the years. One exception applies to adults who hold a CCW license. Per this exception, CCW license holders were not prohibited from carrying a concealed firearm either within 1,000 feet of a school or on school grounds and did not need any permission to do so. In other words, the Act permitted CCW license holders to exercise their own discretion in regard to carrying a concealed firearm on or around school grounds. During this time frame, typically school districts had policies which generally forbid employees from carrying a concealed firearm while on school grounds.

On October 10, 2015, SB 707 was signed into law. SB 707 revised the Act to make it unlawful for a CCW license holder to carry a concealed firearm on school grounds unless the license holder first obtained the express written permission to do so from the school district superintendent or his/her designee. As revised by SB 707, a CCW license holder could still exercise his/her own discretion in regard to carrying a concealed firearm within 1,000 feet of school grounds. But, that person now needed express written permission in order to lawfully do so on school grounds. Note that even without such permission, the firearm could still be stored in the trunk of his/her car when on school grounds.

In response to SB 707, many rural school districts, and some urban school districts, enacted resolutions requiring their school district superintendent to liberally grant CCW license holders permission to carry a concealed firearm on school grounds. Often, their thinking was that such persons, if they happen to be on school grounds during an active shooter situation, would be helpful in protecting lives, particularly in geographical areas where law enforcement response times were relatively lengthy. Some school districts even encouraged school administrators themselves to acquire a CCW license in order to have quick access to a firearm while on school grounds should it become necessary.

Other school districts enacted resolutions which subjected their superintendent's discretion to a number of contingencies before he/she could grant permission to a CCW license holder to carry a concealed firearm on school grounds. Examples of such contingencies were a requirement for additional and frequent firearms training, signing an indemnification /hold harmless agreement, obtaining a Firearms/Self-Defense Liability Insurance policy, undergoing a psychological evaluation and/or be apart of the tactical response component of a school safety plan.

Still, other districts enacted resolutions prohibiting their superintendent from granting permission under any circumstance or limiting his/her authority to only members of the governing board and certain key employee positions. Sometimes, these resolutions were a source of considerable debate both within the school district and community.

On October 14, 2017, AB 424 was enacted. AB 424 further revised the Act by taking away the school districts' ability to allow a CCW license holder to lawfully carry a concealed firearm on school grounds. Although there are still plenty of exceptions to the Act's prohibition against possessing a firearm on school grounds, effective January 1, 2018, possessing a CCW is no longer one of those exceptions, with or without the Superintendent's permission. The state legislature has taken away the discretionary authority of local school districts to permit CCW license holders to carry a concealed firearm on school grounds.

Note that CCW license holders may still carry their concealed firearm within 1,000 feet of a school. But, unless another exception to the Act applies, persons may no longer carry a concealed weapon on to school grounds simply because they have a CCW license, even if they had earlier obtained permission from the district superintendent.

If you have any questions concerning this or related issues, do not hesitate to contact our office.

— Alan B. Harris

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