



Guns and Grenades:

Understanding the Complexities of Federal and State Laws
Pertaining to Weapons on School Grounds

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Roadmap of topics

- Federal Law
 - The Gun-Free Schools Act (20 U.S.C. § 7151)
- State Law
 - Possession of firearm on school property (Section 16-23-420)
 - Carrying weapon on school property (Section 16-23-430)
 - Expulsion of student determined to have brought firearm to school (Section 59-63-235)
- Drafting a Weapons Policy
- Quiz Time!



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Federal Law:

The Gun-Free School Zones Act

- Generally, it is unlawful to for anyone to knowingly possess a firearm within 1,000 feet from school grounds.
- This does not apply to private property not part of school grounds such as a commercial store, driveway, or residence.
- Once an individual leaves the private property located within 1,000 feet of the school grounds, the individual must met several criteria to continue lawfully possessing his/her firearm.
 - Must have a state-issued concealed weapons permit (CWP);
 - Firearm must be unloaded and stored in a locked container or locked firearms rack;
 - Individual must be approved to have the weapon through a school-approved program;
 - Individual is acting in accordance with a contract between the individual and the school;
 - Individual is a law enforcement officer acting in his/her official capacity OR
 - Individual is crossing school grounds to enter public or private way
 - In this case, the firearm must be unloaded and individual must still have permission from the school.



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Federal Law:

The Gun-Free School Zone Act

- Requires schools to have a zero tolerance policy for guns as a condition to receiving Elementary and Secondary Education Act funds.
- "Zero tolerance" means that students who are found to have violated this law must be expelled for not less than one year.
- Exceptions are allowed on a case-by-case basis.
- Requires school districts to report annually to the State
 - Compliance with the law;
 - Any expulsion imposed under the law, including the name of the school and the number of students expelled;
 - The type of firearm.
- This law does not apply to firearms stored in a locked vehicle on school property, or if the firearm is for activities authorized by the school district, and the district has adopted appropriate safety measures to ensure student safety.



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State Law:

Possession of firearm on school property (Section 16-23-420)

- It is unlawful for a person to possess a firearm of any kind on any premises or property owned, operated, or controlled by a private or public school. . . or in any publicly owned building, without the express permission of the authorities in charge of the premises or property.
- Does not apply to a person who is authorized to carry a concealed weapon. . . when the weapon 1) remains inside an attended or locked motor vehicle and 2) is a) secured in a closed glove compartment, closed console, closed trunk, or b) (1) in a closed container secured by an integral fastener and (2) transported in the luggage compartment of the vehicle.
- "Premises" and "property" do not include state or locally owned or maintained roads, streets, or rights-of-way, running through or adjacent to premises or property owned, operated, or controlled by a private or public school, college, university, technical college, or other post-secondary institution, which are open full-time to public vehicular traffic.



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State Law:

Carrying weapon on school property (Section 16-23-430)

- It shall be unlawful for any person, except state, county, or municipal law enforcement officers or personnel authorized by school officials, to carry on his person, while on any elementary or secondary school property, . . . firearms . . .
- This section does not apply to a person who is authorized to carry a concealed weapon . . . when the weapon:
 - remains inside an attended or locked motor vehicle AND
 - is either secured in a closed glove compartment, closed console, closed trunk OR
 - in a closed container secured by an integral fastener AND
 - transported in the luggage compartment of the vehicle.



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State Law:

Expulsion of student determined to have brought firearm to school (Section 59-63-235)

- ▶ The district board must expel for no less than one year a student who is determined to have brought a firearm to a school or any setting under the jurisdiction of a local board of trustees. The expulsion must follow the procedures established pursuant to Section 59-63-240.
- ▶ The one-year expulsion is subject to modification by the district superintendent of education on a case-by-case basis. Students expelled pursuant to this section are not precluded from receiving educational services in an alternative setting.
- ▶ Each local board of trustees is to establish a policy which requires the student to be referred to the local county office of the Department of Juvenile Justice or its representative.



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Weapons Policies for Staff

- ▶ Generally, districts place their stance on weapons as it relates to staff members in the Staff Conduct policy.
- ▶ Language:
 - ▶ "Actions that are considered misconduct"
 - ▶ Possessing weapons on school property (unless authorized by law)
- ▶ Such a policy allows staff who have their CWP to bring their firearm on school property so long as it remains in their locked vehicle in the appropriate container or glove compartment.
- ▶ According to the SC Attorney General, districts are not permitted to implement a policy prohibiting CWP holders (including district staff) from parking on school grounds with a firearm locked securely in the trunk or glove box pursuant to state law.



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Reasoning of Attorney General

- SC Code Section 23-31-510 states that “no governing body of any county, municipality, or other political subdivision in the State may enact or promulgate any regulation or ordinance that regulates or attempts to regulate: the transfer, ownership, possession, carrying, or transportation of firearms, ammunition, components of firearms, or any combination of these things.”

BUT

- SC Code Section 23-31-220 states: “nothing contained in this article shall in any way be construed to limit, diminish, or otherwise infringe upon”:
 - (1) the right of a public or private employer to prohibit a person who is licensed under this article from carrying a concealable weapon upon the premises of the business or workplace....
 - (2) the right of a private property owner or person in legal possession or control to allow or prohibit the carrying of a concealable upon his premises

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Reasoning of AG cont.

- **March 5, 2009 AG Opinion** opined that, based on SC Code Section 23-31-220, Oconee County had the authority to pass an ordinance prohibiting the possession of firearms in county parks.
- **December 7, 2010 AG Opinion** reversed the earlier opinion, stating that SC Code Section 23-31-220(2) applies only to private property owners. That opinion does not, however, specifically address the right of a public employer to prohibit the possession of firearms in the workplace.
- **September 30, 2014 AG Opinion** states that the City of Traveler’s Rest does not have the authority to enact an ordinance restricting concealed weapons from Trailblazer Park, even though, when the Park is used as a venue for concerts and other events, it serves as a workplace for City employees.

Takeaway: The AG does not have authority to definitively address what SC law on this issue means. Ultimately, a Court will have to interpret the law for clarification, either through a declaratory judgment action by a school district or other public body or as the result of a suit by a CWP holder who is denied the right to carry his/her weapon onto public property.

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So, what is clear about the limitations placed on CWP holders with respect to possession on school premises?

- CWP holders may not bring their weapon into a school building without permission from the district. The weapon must remain in a locked car, either in a closed glove box/console or in a locked container in the luggage compartment.
- CWP holders may not bring their weapon into the district office or to a school board meeting without permission from the district.
- The district has the sole discretion whether to grant that permission, and may revoke it at any time.

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Deciding on a Weapons Policy for Staff

- The board should decide whether it is going to “abide by” the most recent AG Opinions and allow district staff with a CWP to have a firearm in their locked car parked on district property. If so, the district’s Staff Conduct Policy should state “possession of weapons on school grounds by employees” is prohibited, unless possession is authorized by South Carolina law.
- If the board is going to allow CWP holders the right to possess a firearm in their car, the board also should consider whether it wants to provide a process by which a CWP holder can be given permission to bring their firearm into the building (eg, the board secretary leaving meetings late at night).
- Alternatively, it is my opinion that a board has the right, as a public employer and as the owner of district property with the rights provided under SC Code Section 59-19--90(5), to adopt a policy prohibiting staff, regardless of CWP possession, from possessing a firearm on school grounds. The district must then post the required “No Concealable Weapons” sign on school property—State law specifies how those signs must be worded, placed, etc.

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Drafting a Weapons Policy for Students

- ▶ Weapons policies related to students should outline the law and the consequences of bringing a weapon on school grounds. "Weapons" should be clearly defined.
- ▶ Students are **not** permitted to carry a weapon in their car, regardless whether it is securely locked in a glove compartment or trunk.
 - ▶ Exception: This prohibition does not apply to students 21 and older who possess a CWP, unless the district expressly prohibits such, which should be noted in board policy.
- ▶ As provided by federal and state law, students who bring a weapon on school grounds **must** be expelled for not less than a year. (Remember: The Superintendent has the authority to modify this requirement on a case-by-case basis).



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Pop Quiz!

- ▶ Morris County School District has recently implemented a policy that allows staff who can present valid CWPs to apply for permission from the school board to carry their weapon into the school building after dark. Is this policy permissible under SC Code Section 16-23-420?
- ▶ Ashley, an adult education student, has a valid CWP. She is 27 years old. Can the school district prohibit Ashley from keeping her firearm in a locked glove box in her car while on school grounds? Can the district prohibit her from bringing the firearm into a school building?
- ▶ Alex is a 17 year-old high school student who loves to go hunting with his dad on the weekends. On Monday, Alex drives to school, forgetting that his hunting rifle is in the gun rack on the back of his truck. Is Alex breaking the law? What are the consequences the district must enforce upon Alex?



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Questions?