

## Michigan Court of Appeals: Schools May Regulate Firearms Possession

On December 15, 2016, the Michigan Court of Appeals ruled in two separate cases that state law does *not* preempt school boards from regulating the possession of firearms in schools and at school sponsored events. *Michigan Gun Owners, Inc v Ann Arbor Pub Schs*, COA Docket No. 329632; *Michigan Open Carry, Inc v Clio Area Sch Dist*, COA Docket No. 329418. In both decisions, the Court of Appeals held that school districts exist independently of local units of government and have “very broad powers of self-governance.” Accordingly, school districts *may* adopt policies regulating the possession of firearms.

The underlying cases originated in two different circuit courts, each addressing the same key questions: can a school district enact a policy regulating firearms possession on its premises? The Genesee County Circuit Court held that the Clio board of education did not have authority to regulate the possession of firearms. The Washtenaw County Circuit Court reached a different conclusion, finding that a school could enact its own policies regulating firearms possession on its premises. The Court of Appeals reconciled the two opposing lower court decisions and held that Michigan firearms possession laws did not control the outcome of either case.

Michigan law prohibits a local unit of government from, among other things, banning the possession of firearms. Under the statute, the Michigan Legislature defines a local unit of government as a city, village, township, or county. The Court of Appeals concluded that a school district *was not* a “local unit of government” and was not prohibited from enacting its own firearms possession policies. The court noted that school districts have very broad powers of self-governance, which specifically include providing for the safety and welfare of students while at school or a school-sponsored activity, and allow them to enact firearms possession policies to ensure that the learning environment remains uninterrupted.

The Court of Appeals also concluded that the Michigan Legislature did not intend state firearms possession laws to preempt all other firearms possession laws and regulations. There is no express language to that effect in Michigan’s firearms legislation. The legislative history of Michigan’s firearms possession laws does not indicate the Legislature intended the laws to be exclusive. Although firearms are extensively regulated in Michigan, the Court of Appeals found that the pervasiveness of those regulations does not support the idea that school districts cannot issue their own firearms possession policies or regulations as they see fit. The court also noted that state laws have 26 references to “weapon-free school zones,” and that such a phrase should “be interpreted to mean exactly what it says—no weapons are allowed in schools.”

While both decisions will likely be appealed to the Michigan Supreme Court, they are binding on all Michigan school districts. Michigan school boards may currently enact policies and regulations prohibiting or limiting the possession of firearms on campus and at school-sponsored events. If you would like assistance updating your school’s policies and regulations regarding the possession of firearms on campus or at school-sponsored events, please contact Thrun Law Firm.

Source: Thrun Law Firm, P.C. School Law Notes, December 22, 2016