

Tamaqua Area says teachers have no legal right to sue over armed staff policy

By Kayla Dwyer - Contact Reporter Of The Morning Call

The Tamaqua Area School District filed preliminary objections in court this week to a lawsuit waged by its teachers' union against the school's new policy allowing staff to carry guns in school.

Policy 705 passed unanimously in September, but it drew fire from the Tamaqua Area Education Association, which filed a lawsuit in Schuylkill County Court in November, claiming the measure is a violation of the Pennsylvania School Code.

The school district, in its filing, questions this claim and argues that the union does not have the legal standing to sue, nor has it established the district committed a "manifest wrong."

The Pennsylvania School Code allows trained law enforcement to carry firearms in school. The teachers' lawsuit alleges that Tamaqua's Policy 705, adopted Sept. 18, ignores "state law and allows school employees who do not have state-required training or experience to carry and use firearms."

The new policy requires staff who volunteer to participate to receive training as outlined by Act 235, the Lethal Weapons Training Act.

But the Education Association says school resource officers receive extra training that goes beyond Act 235 — such as active shooter training — that is not outlined in the district's gun policy.

The district's filing claims this extra training — under the Municipal Police Educational and Training Law, or Act 120 — does not apply to the school district since it is not a municipality or higher education institution.

Despite this distinction, Chris Lilienthal, assistant director of communications with the Pennsylvania State Education Association, said the extra training is what parents and teachers have wanted.

"One big question we have is why the school board is fighting teachers and parents on this," Lilienthal stated in response to the preliminary objections.

Primarily, the district is seeking to prove the union does not have legal standing to file a lawsuit. The district's first objection is to the union's ability to sue, claiming the union does not have standing because it cannot prove any of its members "are suffering immediate or threatened injury," according to the filing.

Lilienthal said the PSEA believes teachers could be put in harm's way if staff are armed without proper training.

“A policy to arm teachers in school will definitely have an impact on working conditions,” Lilienthal said Friday.

The objection filing also calls on the union to prove there is an “actual justifiable controversy.” Questioning the legal sufficiency of the teachers’ lawsuit, the district writes that there is no specific state statute either allowing or preventing a measure like Policy 705, arguing further that recent state statutes include broad enough language to allow such a policy by a public school. Pennsylvania law does not expressly allow concealed carry in public schools, but it offers a defense for a weapon “used in conjunction with a lawful supervised school activity or course or is possessed for other lawful purpose.”

Tamaqua is the first district in the state to pass a policy allowing armed school staff as a way to defend schools against shooters.

Guns in school? Here's a list of states that allow armed teachers

By Kayla Dwyer - Contact Reporter Of The Morning Call

Tamaqua School District's controversial decision to allow teachers and staff to carry guns raises the question:

Can school districts simply decide to allow teachers to possess guns on school grounds? In almost half the country, yes. But the legal arithmetic across the United State is very inconsistent.

Broadly, federal law prohibits firearms within 1,000 feet of a school zone. But the Gun-Free School Zones Act, passed in 1990, does not apply to adults with concealed carry permits. Many states have opted to pass laws prohibiting concealed carry in schools, but at least 10 states allow it, according to a report by the Education Commission of the States and current data from the Giffords Law Center:

- Alabama
- Alaska
- Idaho
- Illinois
- Michigan
- Missouri
- New Hampshire
- Oregon
- Rhode Island
- South Dakota
- Utah
- Wyoming

Hawaii does not have a relevant statute.

Pennsylvania law does not expressly allow concealed carry in public schools, but it offers a defense for a weapon “used in conjunction with a lawful supervised school activity or course or is possessed for other lawful purpose.”

Presumably, a policy such as the one enacted by the Tamaqua Area School Board falls within this category.

These 8 states have policies that specifically allow school employees — other than security personnel, which are allowed to carry guns in 28 states — to carry guns on school property, though they may need the district's permission:

- Idaho

- Kansas
- Louisiana
- Missouri
- South Dakota
- Tennessee
- Texas
- Wyoming

Add Florida to this list, which created a \$67 million "school marshal" program in February to arm teachers in classrooms, in response to the mass shooting at Marjory Stoneman Douglas High School.

The list grows when you consider states that grant school districts power to make their own decisions and do not limit the allowance to school employees.

Nearly 25 states' policies allow schools or districts to give permission to "individuals" to carry guns:

- Alaska
- Arizona
- Connecticut
- Georgia
- Idaho
- Indiana
- Iowa
- Kansas
- Kentucky
- Louisiana
- Massachusetts
- Michigan
- Mississippi
- Montana
- Nevada
- Ohio
- Rhode Island
- South Carolina
- Texas
- New Jersey
- New York
- Utah
- Vermont
- West Virginia

These schools say arming teachers 'can be done right'

By Nicole Chavez, CNN

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(CNN)Arming teachers may be a "terrible" or even a "ridiculous" idea to critics, but some teachers across the country already bring guns to school.

In the wake of the Florida school shooting, the debate over whether teachers should carry guns in class has intensified. President Donald Trump is proposing bonuses for educators who undergo gun training. State lawmakers are beginning to consider legislation while school officials are pushing for an increase in classroom resources but not guns.

State laws related to guns in schools vary by state and although many only apply to college campuses, some states give teachers with concealed carry permits the ability to have guns on the grounds of K-12 schools, according to the Giffords Law Center to Prevent Gun Violence. Here's a look at some of the states where teachers and other school staff are willing to carry their weapons.

Faculty members of Clarksville Schools in Arkansas undergo firearms training yearly. After the Sandy Hook shooting, a school district in Arkansas wanted to hire an extra full-time security guard but couldn't afford it. Instead, they trained more than a dozen teachers and staff members as armed guards.

For nearly four years, the Clarksville School District -- about 100 miles northwest of Little Rock -- has had teachers, janitors, computer technicians and other staff members ready to respond in the case of a shooting, CNN affiliate KARK reported.

"Every second that ticks by is a possibility of a life lost. What we've gathered from this is that it can be done, it can be done right," David Hopkins CNN affiliate KFSM.

Hiring one school resource officer would have cost the district about \$50,000 a year. The district spent at least \$68,000 training about 13 staff members when the program began, Hopkins told KFSM.

For Jim Krohn, a social studies teacher at Clarksville Junior High who volunteered to be one of the officers, the program is a good deterrent.

"If we didn't do this and somebody came into this building or any of our school buildings and harmed children, it would be hard to go to sleep that night thinking what else could I have done and at least we've done what we think is the best thing to protect the children of Clarksville school district," Krohn told KFTA.

A 'fighting chance'

Teachers and other staff members are becoming "school sentinels" in South Dakota to protect students.

Since a state law passed in 2013, at least two school districts in the state have launched a "school sentinel program," which allows the arming of school employees, security guards or volunteers. School administrators say they trust law enforcement but they are too far away. If a shooting takes place, they say school employees would "have a fighting chance."

"We're over 20 minutes from any police force being able to respond to an event, so with that in mind is one of the reasons why we decided to move forward," Ryan Bruns, the Northwestern Area School District superintendent told CNN affiliate KPRY.

Before carrying a firearm on campus, staff members undergo at least 80 hours of use of force, weapons proficiency, legal aspects and first aid classes. They also have to be approved by the school board and a law enforcement agency.

And if parents are against the program, they can put the issue to a voter referendum. So far, there have been no complaints.

"I trust that the teachers and the faculty there all have our children's best interest at heart. They're from the community and the surrounding community and it doesn't concern me at all," Kevin Hansen, whose three children go to the Tri-Valley School District -- about 25 miles northwest of Sioux Falls --- told CNN affiliate KELO.

'I feel really safe'

In Texas, students in the Callisburg Independent School District say they feel safer knowing their teachers can protect them if the unthinkable happens.

About four years ago the district, which is about 85 miles north of Dallas, started what's known as the "guardian" program: a small force of volunteer school staff allowed to carry a concealed firearm on school grounds, said school superintendent Steve Clugston.

"We'll do whatever's necessary to protect our kids and staff," Clugston told CNN. "We don't want to be at the mercy of somebody that's intent on doing harm."

Clugston says the school's guardian force completes active shooter scenario training once a year and routinely takes target practice at gun ranges.

Callisburg is among at least 70 public school districts in Texas that let teachers and administrators carry concealed weapons on school grounds. There are more than 1,000 school districts in the states.

Around the country, community members have opposed the idea of arming teachers but in some rural towns in Texas, students are welcoming it.

"I feel really safe, knowing that, I can come to school and if there's an incident that does happen that they'll be able to protect us," said a student at Callisburg High School who didn't want to be named.

Teacher discharged gun in restroom

For more than 15 years, Utah educators have been able to bring their guns to schools. The state's concealed weapons law allows any person with a permit to have a weapon inside a school. School officials have said that only a small fraction do it, but they can't tell with certainty. If the teachers do have a loaded gun, their principals, school districts, and local police departments wouldn't even know because given they don't have to report it and they can't ask them, according to a state law.

In recent years, no fatal incidents involving teachers with guns in schools have been reported, but in 2014 an elementary school teacher discharged her concealed firearm when she went into the faculty restroom of a Taylorsville, Utah school, CNN affiliate KSL reported. The teacher removed her handgun and when she attempted to holster it, the gun went off, striking the toilet.

She was charged with a misdemeanor charge of discharging a firearm in city limits. She pleaded no contest and was ordered to take a firearms safety course in order to get the case dismissed. 'Tired of having a target on their back'

Proximity to law enforcement has driven two eastern Idaho school districts to allow weapons on campus.

The Mountain View School District -- about 200 miles north of Boise -- has allowed staff members to carry concealed weapons on campus for the last year. The nearest law enforcement in this district can be up to an hour and 45 minutes away, according to CNN affiliate KIVI.

"People are tired of having a target on their back and that was my main reason of doing," Mike Dominguez a Mountain View School District Board Member, told KIVI.

Staff in Mountain View is armed on a voluntary basis and will have to undergo serious vetting and more than 40 hours of training, KIVI reports.

In the Garden Valley School District, trained staff members have access to firearms but they have them locked up. The district is "45 minutes over the mountain" from the Sheriff's Office, superintendent and principal Greg Alexander told CNN affiliate KBOI.

The Garden Valley School in Idaho began their weapons policy more than five years ago and it's been evolving ever since.

Alexander and the school board want to be prepared for an active shooter situation. Years after implementing the weapons policy, he says they're more prepared than ever.

"We've changed up our training just to meet the needs of those that have been coming, I mean we do scenarios and every time it is different," he said.

Nowadays, Alexander told KBOI, a NRA-certified trainer trains different teams and puts them in scenarios so they know when to move, fire a weapon and think about what kind of scenarios they may face.

Teachers with guns? Senate Bill 383 gives OK in Pa.

PATRICK VARINE | Friday, April 21, 2017, 10:12 p.m

State Sen. Don White wants to give school districts more options to keep students safe. But according to several statewide education groups, allowing teachers to carry firearms on school property is not a viable option.

The Indiana County Republican's Senate Bill 383 — it was approved this week by a 9-3 vote of the bipartisan Senate Education Committee — would allow school districts to grant properly licensed and trained personnel access to firearms or permission to carry a concealed firearm. White put forth similar legislation in 2014, which was not enacted.

“Since I first introduced this proposal, there has been much discussion about what the measure does and how it relates to current Pennsylvania law,” White said in a news release. “To be clear, this bill is not about the Second Amendment. It's about permitting the 500 school districts of this Commonwealth to have greater choices when it comes to protecting our most precious resource — our children.”

Ken Trump, president of Cleveland-based National School Safety and Security Services, said teachers are not trained law enforcement officers.

“It's a high-risk, high-liability proposition,” Trump said. “School districts are educational organizations; they're not police departments. Superintendents and principals are educators, not police chiefs. Police officers are trained to assess situations and make life-or-death decisions with every call they take.”

The bill's language mandates that any school district employee with access to a firearm have current certification in one of five education courses that provide basic firearms training. It does not propose a mechanism to fund that certification.

The nonprofit Education Law Center, with offices in Pittsburgh and Philadelphia, also opposes the bill.

“There is reason to believe arming school personnel is more dangerous than the harm it seeks to avoid,” the center's executive director, Deborah Klehr, wrote in a March 27 letter to the Senate Education Committee. “Children are far more likely to be injured by self-inflicted gunshot wounds or in an accidental shooting resulting from another person's handling of an improperly stored or unsecured firearm than they are to be injured in an intentional act of gun violence while at school.”

White's Senate district includes the Franklin Regional School District, where 20 students and a security guard were injured in a 2014 knife attack.

Franklin Regional Superintendent Gennaro Piraino said he is following discussion of the bill but has not taken a position on it.

“The safety and security of my students, staff and community is always my paramount concern,” Piraino said. “This subject and legislation is very complex and has both intended and potential unintended impacts on all stakeholders in our community.”

Sen. Randy Vulakovich, R-Shaler, a co-sponsor of the bill, addressed concerns at a meeting with parents in the Fox Chapel School District Thursday evening.

“I’m a big believer that school districts can make this decision on their own,” he said. White said that with time being a critical factor during a violent incident, his bill “gives trained school personnel the opportunity to serve as first responders.”

Trump said if a school district feels strongly enough that it needs a constant armed presence on campus, “put your money where your mouth is and invest in a school-based police presence. People cry poor when that comes up — well, you’re going to pay a lot more if you have a liability issue involving a staff member with a firearm.”

The Pennsylvania State Education Association also opposes the bill. Spokesman Wythe Keever said turning school employees into first responders creates more problems than it solves. “First responders arriving on scene at an armed confrontation might not be able to distinguish a perpetrator from a school employee,” he said. “We believe in making schools safer, but this bill is not the way to do it.”