

Ohio Supreme Court Rules that School Employees Must Undergo Training to Carry Firearms on School Grounds

By Ahmer Sheriff

On June 23, 2021, in a 4-3 decision, the Ohio Supreme Court ruled that a resolution passed by the Madison Local School District Board of Education which allowed certain employees of the District to carry firearms on school grounds did not comport with Ohio law.

In 2016, a school shooting took place at Madison Junior-Senior High School, which left four students injured. In response, the District's Board of Education approved a resolution in April 2018 "to allow armed staff" in a school safety zone, which was subsequently followed by a "Firearm Authorization Policy." The resolution and the corresponding policy stated that some "teachers, school support staff, administrators, and others" would be permitted to carry a firearm on school grounds if the individuals: (i) were designated by the superintendent after a mental health assessment and background check; (ii) had a concealed carry license; and (iii) completed 24 hours of active shooter training.

In response, a group of parents of students enrolled in the District commenced an action seeking a declaratory judgment that the resolution violated O.R.C. §109.78(D), as well as an injunction prohibiting the District from implementing the resolution regarding District employees who did not meet the requirements of that statute. O.R.C. §109.78(D) indicates that public education institutions, such as the District, cannot "employ a person as a special police officer, security guard, or other position in which such person goes armed while on duty, who has not received a certificate of having satisfactorily completed an approved basic peace officer training program, unless the person has completed twenty years of active duty as a peace officer."

The trial court ruled in favor of the District and held that the requirement in O.R.C. §109.78(D) only applied to "positions that inherently require the employee to be armed while on duty." On appeal, the Twelfth District reversed the trial court's judgment and its "limited reading" of O.R.C. §109.78(D) and held that the statute applies to teachers and other school staff who are authorized to carry a firearm while on duty by a board of education.

The Ohio Supreme Court affirmed the ruling of the Twelfth District and held that because the April 2018 resolution authorized certain employees to be armed while on duty "without also requiring that these employees satisfy the training-or-experience requirement" of O.R.C. §109.78(D), the resolution violates the statute, and does not comply with Ohio law. The Ohio Supreme Court also analyzed O.R.C. §2923.122, a criminal statute which makes illegal the possession of a deadly weapon in a school safety zone, with certain exceptions—including a caveat that the statute does not apply to (among others) "any other person who has written authorization from the board of education or governing body of a school to convey deadly weapons or dangerous ordnance into a school safety zone or to possess a deadly weapon or dangerous ordnance in a school safety zone...." The Court held that the exception in O.R.C. §2923.122(D)(1)(a) does not give school boards the ability to circumvent the requirements of O.R.C. §109.78(D), nor does it "constitute a legislative grant of power for school boards to authorize their employees to go armed so long as the employees undergo whatever training a board might deem advisable."

The dissenting opinions indicated the peace officer training requirements were not applicable to teachers and other school staff, and that school districts had discretion in creating policies regarding arming teachers and other staff.

The Court also explained that when the General Assembly enacted O.R.C. §2923.122, O.R.C. §109.78 had already been in effect for over 20 years—and further held that if the General Assembly had “perceived any conflicts between the statutes,” it could have amended either one of the statutes but did not. In response to this discrepancy, Representative Thomas Hall, whose father was the school resource officer who chased the shooter out of the building in 2016, introduced [House Bill 99](#). House Bill 99 would give school districts throughout Ohio the discretion to allow teachers and other school staff to be armed in school so long as they have completed the concealed carry training, which is eight hours in length. The Bill also includes proposed amendments to O.R.C. §2923.122 and O.R.C. §109.78. It remains to be seen whether House Bill 99 will be signed into law, but the issue of armed teachers and school staff is one that is under continuous scrutiny.

If you would like more information and insight on this matter, please contact one of the listed Roetzel attorneys.

Doug Spiker

Practice Group Manager
Employment Services
216.696.7125 | dspiker@ralaw.com

Lewis Adkins

Practice Group Manager
Public Law, Regulatory and Finance
216.616.4842 | ladkins@ralaw.com

Susan Keating Anderson

Chair, Education Law Group
216.232.3595 | sanderson@ralaw.com

Karen Adinolfi

330.849.6773 | kadinolfi@ralaw.com

Aretta Bernard

330.849.6630 | abernard@ralaw.com

Michael Brohman

312.582.1682 | mbrohman@ralaw.com

Amanda Connelly

614.723.2012 | aconnelly@ralaw.com

Helen. S. Carroll

330.849.6710 | hcarroll@ralaw.com

G. Frederick Compton, Jr.

330.849.6610 | fcompton@ralaw.com

Diana M. Feitl

216.615.4838 | dfeitl@ralaw.com

Monica Frantz

216.820.4241 | mfrantz@ralaw.com

Barry Freeman

216.615.4850 | bfreeman@ralaw.com

Morris Hawk

216.615.4841 | mhawk@ralaw.com

Paul Jackson

330.849.6657 | pjackson@ralaw.com

Doug Kennedy

614.723.2004 | dkennedy@ralaw.com

Justin P. Markey330.849.6632 | jmarkey@ralaw.com**Nancy Noall**216.820.4207 | nnoall@ralaw.com**Stephanie Olivera Mittica**330.849.6671 | smittica@ralaw.com**Nathan Pangrace**216.615.4825 | npangrace@ralaw.com**Galen L. Schuerlein**216.820.4238 | gschuerlein@ralaw.com**Ahmer Sheriff**216.615.4849 | asheriff@ralaw.com

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