

WISCONSIN ASSOCIATION OF SCHOOL BOARDS, INC.  
Madison, Wisconsin  
November 18, 2013

Proposed Resolutions for the January 22, 2014 Delegate Assembly meeting

REPORT TO THE MEMBERSHIP ON 2014 RESOLUTIONS  
WASB Policy & Resolutions Committee  
Mike Blecha, Green Bay Area School Board, Chair

**Resolution 14-15: Weapons Possession in School Zones**

Amend existing resolution 6.11 (b) Weapon Possession as follows:

*6.11 Weapon Possession*

*(b) The WASB supports safe learning environments for all children, free of guns and other weapons. Further, the WASB opposes any initiatives at the state or federal level that would legalize any further ability for anyone, with the exception of sworn law enforcement officers, to bring a weapon or possess a weapon, concealed or otherwise, in school zones or lessen the consequences for violation of existing safe school policies relating to guns and other weapons.*

**Rationale:**

The committee advanced this resolution to clarify and update the existing WASB resolution on this topic (6.11 (b) Weapon Possession), which was adopted prior to the enactment of legislation (2011 Wisconsin Act 35) permitting licensed individuals to carry concealed weapons, commonly referred to as the Carrying Concealed Weapon (CCW) Law, which effectively allows those with training and registration to carry concealed weapons in most settings unless specifically prohibited by law.

**Background:**

The existing WASB Policy resolution, 6.11 (b), Weapon Possession, reads, “(b) The WASB supports safe learning environments for all children, free of guns and other weapons. Further, the WASB opposes any initiatives at the state or federal level that would legalize any further ability for anyone to bring a weapon or possess a weapon in school zones or lessen the consequences for violation of existing safe school policies relating to guns and other weapons.”

Legislation permitting licensed individuals to carry concealed weapons, 2011 Wisconsin Act 35, commonly referred to as the Carrying Concealed Weapon (CCW) Law, effectively allows those with training and registration to carry concealed weapons in most settings unless specifically prohibited by law. The CCW law also made significant changes concerning the presence of weapons in schools. In particular, it changed the state law governing firearms in or on school grounds or within 1,000 feet of school grounds.

Most provisions of Act 35 took effect on November 1, 2011. Act 35 generally allows qualified persons to carry concealed weapons in public. Allowable “weapons” include handguns, electronic weapons, Billy clubs, and knives other than switchblades.

Despite the rights granted under the CCW law (Act 35), certain restrictions apply. In particular, the Wisconsin gun-free school zones law, which was amended by Act 35, places certain restrictions on individuals possessing firearms while on or around school grounds. “School” is defined as a public school, parochial or private school or tribal school, which provides an educational program for one or more grades between grades 1 and 12 which is commonly known as an elementary school, middle school, junior high school, senior high school, or high school. Free-standing 4K and 5K kindergarten buildings are not covered by this definition.

The restrictions under the amended gun-free school zones law are enumerated below. First, under the law as amended to permit CCW (Act 35), there is a general prohibition against an individual, including students, knowingly possessing a firearm in or on school grounds. There is no exception for CCW licensees. However, some exceptions make it lawful to possess a firearm:

- (1) on private property that is not part of school grounds;
- (2) for use in a program approved by a school in the school zone;
- (3) in accordance with a contract entered into between a school in the school zone and the individual or employer of the individual;
- (4) by a law enforcement officer acting in his or her official capacity;
- (5) when the firearm is unloaded and is possessed by an individual while transversing school premises for the purpose of gaining access to public or private lands open to hunting, if the entry on the school premises is authorized by school authorities;
- (6) when the firearm is not loaded and is encased or in a locked firearms rack that is on a motor vehicle;
- (7) by a state-certified commission warden acting in his or her official capacity; or
- (8) by a person legally hunting in a school forest if the school board has decided that hunting may be allowed in the school forest.

Second, under the law as amended to permit CCW (Act 35), an individual is prohibited from knowingly possessing a firearm at a place that the individual knows, or has reasonable cause to believe, is within 1,000 feet of the grounds of a school. Unlike the restriction above concerning firearms on school grounds, there is an exception allowing CCW licensees to possess a firearm within 1,000 feet of the grounds of a school. The other exceptions noted above also apply.

Wisconsin law also restricts certain dangerous weapons on school premises. Specifically, the law generally prohibits any person, including students, from knowingly possessing or being armed with a “dangerous weapon” on school premises. “Dangerous weapon” excludes firearms, but includes any BB or pellet-firing gun that expels a projectile through the force of air pressure or any starter gun; any device designed as a weapon and capable of producing death or great bodily harm; any electronic weapon; any ligature or other instrumentality used on the throat, neck, nose, or mouth of another person to

impede breathing or circulation of blood; or any other device which, in the manner used or intended to be used, is calculated or likely to produce death or great bodily harm. "School premises" means any school building, grounds, recreation area, athletic field, or any other property owned, used or operated for school administration.

Thus, despite any rights under Act 35, the law still restricts "dangerous weapons" from school premises, except in very limited instances. There is no exception allowing for CCW licensees to possess dangerous weapons on school premises. A number of school districts, including several districts in the Green Bay area, have given approval to off-duty police officers to bring their service weapons to school events for safety and security reasons. News reports indicate the Ashwaubenon and Green Bay Area school districts have such agreements with local police.

Under current law, a law enforcement officer or a former law enforcement officer may go armed with (carry) a concealed weapon if he or she has a license issued by the Department of Justice or if he or she carries a photographic identification issued by the law enforcement agency that employs or, in the case of a former law enforcement officer, employed, him or her and meets other qualifications such as meeting any standards established by the agency to carry a firearm, not being under the influence of an intoxicant, and not carrying a machine gun or a firearm silencer.

Federal law explicitly preempts any state law prohibiting a qualified law enforcement officer or a qualified former law enforcement officer from carrying a concealed firearm, but federal law allows a state to permit private persons to prohibit the possession of concealed firearms on their property and to prohibit firearms on any state or local government property, installation, building, base, or park. Legislation has been introduced in the current legislative session (Assembly Bill 9) to exempt from these prohibitions law enforcement officers who are acting in their official capacity (who are currently exempt only from the prohibition against carrying on school grounds); qualified law enforcement officers, without regard to whether they are on duty; and qualified former law enforcement officers.

An amendment (AA1) has been offered to broaden Assembly Bill 9 to allow any person with a concealed carry (CCW) license to go armed on school grounds. Even if such an amendment were to be adopted, it is the WASB understanding that a school board would still be able to prohibit the concealed carry of weapons in school buildings if it provides an appropriate notice. As noted above, notice requires posting a sign (which must be five inches by seven inches) in a prominent place near all of the entrances of the parts of the building to which the restriction applies. Any individual entering the building must be reasonably expected to see the sign, which at a minimum should inform people that weapons and firearms are prohibited.

A separate amendment (AA2) has been offered to Assembly Bill 9 that would provide that the ability of properly qualified law enforcement officers to go armed on school grounds would not be affected by or subject to the notice posting requirement.

**WASB Policy Resolution, as Adopted:***6.11 Weapon Possession*

*The WASB supports safe learning environments for all children, free of guns and other weapons. Further, the WASB opposes any initiatives at the state or federal level that would legalize any further ability for anyone, with the exception of sworn law enforcement officers, to bring a weapon or possess a weapon, concealed or otherwise, in school zones or lessen the consequences for violation of existing safe school policies relating to guns and other weapons. (2004-18)(2014-15)*

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