



COMMONWEALTH of VIRGINIA
Department of Education

DATE: September 21, 2018

TO: Division Superintendents

FROM: James F. Lane, Superintendent of Public Instruction

SUBJECT: Attorney General's Opinion Related to Possession of Firearms on School Property by Designated Employees

This purpose of this memo is to transmit an official advisory opinion issued by Attorney General Mark R. Herring related to a school board's recent decision to seek approval for public school teachers or other school personnel to be appointed as special conservators of the peace (SCOP's) in order to permit them to carry firearms on school grounds.

On August 28, 2018, Attorney General Herring issued an opinion concluding that this is not permissible. In the opinion, Attorney General Herring states that:

Virginia law expressly limits who may possess firearms on school grounds for safety purposes, and the General Assembly declined to enact bills presented every year from 2013 through 2017 to extend this authority to school teachers and administrators.

The opinion further notes that § [18.2-308.1](#)(B) of the *Code of Virginia* "generally prohibits individuals from knowingly possessing firearms on school property," and establishes that a violation of this prohibition constitutes a Class 6 felony.

There are exceptions to this prohibition enumerated in § [18.2-308.1](#) (C) of the *Code*, including the possession of weapons by law-enforcement officers, retired law-enforcement officers, or school security officers meeting the requirements of § [22.1-280.2:1](#) of the *Code*. Another exemption is the possession of firearms "as a part of the school's curriculum or activities" or "as a part of any program sponsored or facilitated by either the school or any organization authorized by the school to conduct its programs..." to accommodate programs such as Junior Reserve Officers' Training Corps and hunter safety education programs.

The opinion further clarifies that a special conservator of the peace is not the same as a conservator of the peace. Conservators of the peace, which include judges, Commonwealth’s attorneys, magistrates, and other specified agents and investigators, are permitted to carry firearms on school property “while in the discharge of their official [law enforcement] duties, or while in transit to or from such duties.” In contrast, special conservators of the peace are appointed by a circuit court, and there is no exemption in law to permit them to carry weapons upon school property.

JFL/rsa

Link

[Virginia Attorney General Opinion 18-042](#)