



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 29, 2016

Dr. Jodi Duron
Office of the Superintendent
Elgin Independent School District
P.O. Box 351
1002 N Avenue C
Elgin, Texas 78621

RE: Wrongful Exclusion of Handgun License Holder Complaint – No Violation
Elgin Independent School District Administration Building
OAG Complaint No. 23

Dear Superintendent Duron:

The Office of the Attorney General (“OAG”) received a citizen complaint, pursuant to section 411.209 of the Government Code, concerning the alleged wrongful exclusion of handgun license holders from the Elgin Independent School District (“the district”) Administration Building. After investigating the citizen complaint, the OAG has determined the district is not in violation of section 411.209.

Section 411.209(a) of the Government Code states as follows:

A state agency or a political subdivision of the state may not provide notice by a communication described by Section 30.06, Penal Code, or by any sign expressly referring to that law or to a concealed handgun license, that a license holder carrying a handgun under the authority of this subchapter is prohibited from entering or remaining on a premises or other place owned or leased by the governmental entity unless license holders are prohibited from carrying a handgun on the premises or other places by Section 46.03 or 46.035, Penal Code.

TEX. GOV'T CODE § 411.209(a).

Generally, a political subdivision may post a Penal Code section 30.06 (“30.06”) or concealed handgun sign to warn handgun license holders against trespassing on the premises where weapons are prohibited by section 46.03 or 46.035 of the Penal Code.

In this instance the citizen complaint states that, inside the two front entrances of the district’s Administration Building located at 1002 N. Avenue C, Elgin, TX 78621, there are 30.06 signs warning handgun license holders not to enter the premises with their concealed handguns or they will be prosecuted, as well as signs prohibiting the open carry of handguns by license holders under section 30.07 of the Penal Code.

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Section 46.03 of the Penal Code prohibits a person, including a handgun license holder, from bringing weapons on certain premises. Violation of this section constitutes a third degree felony. Specifically, section 46.03(a)(1) allows the exclusion of weapons from “the physical premises of a school or educational institution, any grounds or building on which an activity sponsored by a school or educational institution is being conducted, . . . whether the school or educational institution is public or private, unless pursuant to written regulations or written authorization of the institution[.]” Section 46.03 of the Penal Code does not define school or educational institution. In other contexts, Texas law defines “educational institution” to include a school district. *Cf.* TEX. GOV’T CODE § 552.114; Tex. Rev. Civ. Stat. Ann. art. 6228a-5, § 4(2); Tex. Att’y Gen. Op. JC-03333 (2001) (opining that FERPA applies to student records at both the state and local level because “educational agency or institution” includes any public or private agency or institution that receives federal funding under an applicable education program, without regard to whether it enrolls students”); Tex. Att’y Gen. Op. ORD 634 (1995) (assuming that Arlington Independent School District is an educational institution as defined under the Family Educational Rights and Privacy Act of 1974, Sec. 513, Pub. L. No. 93-380, 20 U.S.C. Sec. 1232g(a)(3) (1994)).

Having concluded that the district is an educational institution pursuant to Penal Code § 46.03(a)(1), the OAG determines the signage at the front entrance of the district’s administration building is not in violation of section 411.209 of the Government Code. The OAG is closing this complaint.

If you have any questions, feel free to email me at matthew.entsminger@texasattorneygeneral.gov or call me at 512-475-4186.

Sincerely,



Matthew R. Entsminger
Assistant Attorney General
Administrative Law Division
P.O. Box 12548, Capitol Station
Austin, Texas 78711-2548
Telephone: (512) 475-4186
Facsimile: (512) 457-4686
matthew.entsminger@texasattorneygeneral.gov

cc: Complainant