

PROHIBITING HANDGUNS ON CHURCH CAMPUSES—CHANCELLOR’S RECOMMENDATIONS FOR COMPLYING WITH TEXAS LAW

Effective January 1, 2016, Texas law permits a person licensed to carry a concealed handgun to carry that handgun openly¹ or concealed in most public places. Nevertheless, it remains the policy of the Episcopal Diocese of Texas that, except in the hands of law enforcement officers, handguns have no place on our church and school campuses. While it may be legal for licensed persons to carry handguns in Texas, doing so remains a dangerous activity and poses some risk of harm to others on the premises. Under Texas law our churches and schools have the right to forbid entry to someone carrying a gun, and prudence and common sense dictate that they should exercise that legal right. This is to provide some guidance to Episcopal churches and schools how to implement a gun-free zone policy.

Notice Now Required That Guns Are Forbidden on Church Campuses

It remains illegal to carry a handgun—concealed or openly—on the premises of a school, any playground or athletic field of a school, or any school-sponsored mode of transportation.² Tex. Penal Code §46.03(a)(1). You should be aware that "premises" means a building or a portion of a building. The term does not include any public or private driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area. Tex. Penal Code §46.035(f)(3).

Under the new legislation, however, churches are treated no differently than other property owners. While churches are entitled to bar guns from their property, to do so churches must give legally effective notice to the public that concealed and openly carried handguns are forbidden on their premises. Tex. Penal Code §§30.06 and 30.07.

Types of Legally Effective Notice

There are three ways of giving legally effective notice: (1) a card or other written communication, (2) signs posted at entrances, and (3) oral communications.

To prohibit open carry, the written notice must contain language identical to the following:

Pursuant to Section 30.07, Penal Code (trespass by license holder with an openly carried handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a handgun that is carried openly.

¹ While the handgun may be in plain view, it must be carried in a shoulder or belt holster.

² The gun statutes do not define a "school." Clearly schools offering grades between kindergarten through 12th grade qualify. The statutes do not expressly say whether pre-schools are—or not—"schools" within the meaning of the gun laws.

Conforme a la Sección 30.07, del Código Penal (traspase por portador de licencia para el libre porte de armas de fuego), personas con licencia bajo autoridad del Subcapítulo H, Capítulo 411, del Código de Gobierno (ley reguladora de armas de fuego), no deberá entrar a esta propiedad con un arma de fuego a libre porte.

To prohibit concealed handguns, the written notice must contain precisely the following language:

Pursuant to Section 30.06, Penal Code (trespass by license holder with a concealed handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a concealed handgun.

Conforme a la sección 30.06, del Código Penal (traspase por portador de licencia con un arma de fuego oculto), personas con licencia bajo autoridad del Subcapítulo H, Capítulo 411, del Código de Gobierno (ley reguladora de armas de fuego), no deberá entrar a esta propiedad portando un arma de fuego oculto.

The statutes do not say, and the Department of Public Safety has declined to opine on, whether the two notices can be combined into a single notice prohibiting both openly carried and concealed weapons. That will be a question for the courts to determine.

To effectively prohibit openly carried or concealed handguns, signs must

- include the appropriate legally required language (quoted above) in **both** English and Spanish,
- appear in contrasting colors with **block letters** at least **one inch** in height, and
- be displayed in a conspicuous manner clearly visible to the public at each entrance to the property.

The principal virtue of the signs is that their presence at the entrance establishes as a matter of law that the person entering the property with a gun had notice that guns were prohibited on the property in question.

The final method of effective notice is for a person with apparent authority to speak for the property owner to advise the handgun carrier personally and orally that handguns are not permitted on the premises.

If a church provides legally sufficient notice, then a person commits a criminal offense if the person brings a concealed or openly carried handgun onto the church's property. Unfortunately, the offense is only a Class C misdemeanor, although if the offender personally receives oral notice and thereafter fails to depart, the misdemeanor penalty is enhanced.

Recommendations for Churches

In light of the Diocesan policy that our churches should be gun-free zones, churches should take affirmative steps to make known that guns are prohibited on church property. No one set of steps fits all circumstances, and the lengths to which a church should go depend largely on the perceived risk of harm through gun violence.

There are some easy—and inexpensive—steps churches can take to provide legally sufficient notice. First, any church that distributes a weekly or monthly newsletter to its congregation could include somewhere in every issue of the newsletter the legally required language announcing that both openly carried and concealed weapons are prohibited in any of the church's buildings. That will put all parishioners who receive such a newsletter on notice of the prohibition.

Second, weekly service leaflets or booklets could include somewhere the legally required language prohibiting guns. That will put persons attending services, whether parishioners or visitors, on notice of the prohibition.³

Churches can also have printed cards with the legally required language prohibiting guns readily available in church services, educational or recreation buildings, or in the administrative offices to hand out as necessary to handgun carriers.

Finally, of course, churches can obtain and post signs with the legally required language at the entrances to their church buildings. To bar all handguns, two signs in both English and Spanish—one for open carry and the other for concealed carry—will be required. To be completely effective, the signs must be posted at each entrance to every church building on the campus.⁴ Legally sufficient signs can be obtained from a variety of vendors who can be found on the Internet. Our church legislative team has commissioned the design of signs specifically for churches, which can be found at www.buildesign.com/store/TexasImpact.

³ While the statutes expressly authorize notice by “written communication,” they offer no elaboration regarding what types of written communications suffice. The foregoing recommendations are based on a common sense reading of the statutes in a church context. But because the law is new and the courts have not yet interpreted it, there can be no authoritative assurance at this time that reliance on newsletters and service bulletins alone will ultimately be deemed legally sufficient notice by “written communication.”

⁴ Given the ambiguity about whether a school that serves only pre-K children qualifies as a “school” under the gun laws, such a pre-school may want to consider posting a legally sufficient sign at its entrance. Often pre-schools have access controlled through one entrance for security reasons, and hence the burden of posting a sign is minimized.

Some churches—particularly those with many entrances to their various church buildings—may not like the idea of defacing their church entrances with unattractive legalistic signs. But, as long as the signs comply with the statutory requirements, the signs can be custom-made in a style that matches the church’s existing signage. And the signs do not necessary need to be affixed permanently to an entrance. They could be mounted on a stand that could be brought out for Sunday worship services and then moved during the week to other locations such as the entrances to the church offices or recreation or educational buildings.

Finally, churches need to be prepared to confront a person who has entered the church building with a handgun.⁵ That will require training for clergy, staff, vestry, ushers, teachers and other persons who might encounter the person with a handgun. The church representative should politely introduce himself or herself, say that he or she is authorized to tell the person that handguns are not permitted in the church’s buildings, and request the person to leave the building. An even better approach would be to have ready to hand to the person a card printed with the statutory gun-free language, which may make a greater impression on the recipient. Of course, the visitor may react negatively and may not immediately and voluntarily depart. If that is the case, church representatives should **not** try to force the visitor to leave. Rather, they should call security, if on duty, or the police and let the trained security officers deal with the situation.

Security Officers

If, through location or past experience or for any other reason, a church or school believes there is an actual risk of gun violence on or about its premises, then it needs to take further steps to keep its campus safe. Here are some suggestions:

1. Churches and schools may hire off-duty police officers. These officers are trained in how to respond to threats to safety, including from armed intruders, and understand the degree of force necessary in various situations.
2. Churches and schools may consult with local police departments to learn what measures should be taken to prepare students and staff for emergency situations, including when an intruder enters the building or threatens harm. The police can assist in the development of a contingency plan including periodic safety drills. Schools should follow SAES, IAS, and/or NAES guidelines, depending on their association.

⁵ This applies to a person who otherwise appears to be normal and non-violent. It does not apply to someone who enters the property brandishing a weapon with apparent intent to harm. In that extreme case the proper response is to seek safety, call 911, and summon the police to deal with the intruder.

3. Churches and schools may hire private security firms. Some security firms hire retired police officers who have been trained in how to respond to threats of safety.

In all instances, churches and schools should be mindful of safety measures that can minimize the risk of harm to persons entrusted to their care, and should undertake a careful review of applicable policies, including those pertaining to access to buildings.

Respectfully submitted,

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