

The Sandy Hook shooting was a sucker punch, a reminder that safety is largely a state of mind, not a guarantee. Our national attempt to make sense of the chaos has ignited a debate on the Second Amendment. But when you sift through the punditry, a single question remains.



HOW CAN WE KEEP

The morning of May 18, 1927, in Bath, Mich., probably dawned much like the morning of Dec. 14, 2012, in Newtown, Conn. Parents surely prodded children to get out of bed. Teachers surely prodded themselves to get out of bed. It was a morning like any other morning.

We all know what happened in Newtown, but lost in the history books is what happened in Bath. That day, a school board member enraged by a

property tax dynamited the Bath Consolidated School, killing 45 people, including 38 children.

We tend to idealize the past, particularly the pre-1960s past, preferring to remember it through a *Leave It to Beaver* filter. But issues of school safety have always been with us and will always be with us.

The tragedy at Sandy Hook Elementary in Newtown has reignited debate on gun control and the Second Amendment. On one side, officials are calling for stricter regulations on gun ownership; on the other, lawmakers talk of arming teachers.

The story of the Bath Consolidated School is a reminder, however, that the sanctity of the learning environment is in peril not only from guns.

ATPE is taking a leading role in the school safety conversation. ATPE was the only educator employee group invited to testify at the Legislature's first discussion on the issue, a Jan. 29 joint hearing of the Senate Education Committee and the Senate Committee on Agriculture, Rural Affairs & Homeland Security. There, ATPE State President Deann Lee emphasized ATPE's longstanding commitment to the local public control of public schools, a commitment codified in the ATPE State Bylaws.

"Our position on school safety is that local educators should respond to the unique circumstances in their communities," Lee testified. "We believe each school community should make safety and communication their first priority and tailor their processes to the unique circumstances of the community, based on best practices that currently exist and with the knowledge that safety issues are constantly evolving."

Lee testified that although ATPE members have not created a specific policy through their governance process on the issue of training educators to deal with active shooter situations,



KIDS SAFE?

ATPE leadership was seeking their input on the topic. To seek that input, ATPE sent an online school safety survey to each member who has provided an email address to ATPE. More than 3,000 members completed the survey, and printed here are selected responses to the survey's open-ended question: In your opinion as an educator, what measures should school districts take to keep educators and students safe?

The responses varied widely—lending credence to the position that local school districts know best the safety procedures they need to put in place. But underlying all of the responses was a common concern. As Lee testified: "This is about student safety and how we can best equip teachers and staff to care for our most precious possession—our children."

LISTEN to the memories of a survivor of the Bath school explosion at <http://storycorps.org/listen/willis-cressman-and-his-niece-johanna-balzer>.

WATCH Lee's testimony at www.teachthevote.org/news/2013/01/29/atpe-state-president-deann-lees-school-safety-testimony/.

▲ **BEHIND THE DESIGN** As the graphic designer for the school safety feature, I knew that whatever design approach I took needed to be chosen carefully because of the topic's sensitive nature. After racking my brain and coming up with various mediocre ideas, I decided to take my kids and the dogs for a walk at the local elementary school for some inspiration. As we walked, I asked my kids what makes them feel safe, and my 7-year-old daughter Leah said (without any hesitation) that it was the *people* who made her feel safe—hence the concept for this feature's design. —John Kilpper

Selected responses from members in RURAL AREAS

At our school, we have no cell service. We could not call out if we needed to get help. We do have an intercom system to contact the office, but that would not help if an intruder got to the office personnel first.

—*First-grade teacher*

There should be a gun in the front office, locked in a secure place. Every office personnel should be trained on its location and how to use it.

—*Fourth-grade teacher*

The use of a Taser or stun gun should be considered instead of using deadly force. That way, if there's a mistake or a bad shot, more innocent people would not be killed.

—*High school teacher*

IS THE ANSWER STRICTER GUN CONTROL?

I am a teacher in a state jail facility. I am pat-searched/scanned on my way inside the building routinely. Unauthorized personnel are not allowed beyond a certain point. Public schools could operate in the same manner as I see it. I believe I teach in a safer, more controlled environment than those teaching in public schools. Airport security works similarly. Many people would complain if we began to do this. However, if you want your children safe at school, this is one obvious way to start!

—*Literacy (GED) teacher*

Whatever it takes. I believe it falls on the lawmakers to allow God back into the schools since the history and founding of the education system in the U.S. originated there. Also, allow for relationships to be obtained through love and discipline.

We have become a too politically correct society—and look where it has taken us.

—*Middle school history teacher*

We should do everything possible to ensure the safety of both our students and our educators. No educator wants to be faced with the decision to take deadly action against an intruder, but that should be available as a last resort.

—*Middle school teacher
(math and reading lab)*

School districts are already doing a very credible job keeping their students secure. Knee-jerk reactions to isolated school tragedies, however horrible they might be, will always be counterproductive.

—*Retired school administrator/current university student teacher supervisor*

I am a teacher and former correctional officer for the Texas Department of Criminal Justice, but I do not think firearms should be brought inside school buildings. There is a reason that correctional officers do not carry firearms inside a prison. If the person carrying the weapon is overtaken, the weapon falls into dangerous hands. Mental instability is not just a danger from outside sources (as Columbine proved to us). I have been trained and qualified with

firearms and personally own several that I keep at home; however, I would not want the liability of carrying a weapon to school, and I don't think the school district wants that liability, either.

—*Secondary English/language arts/
reading teacher*

Administrators should take the staff more seriously when we tell them about troubling students.

—*Teacher*

I think schools need to look into having bulletproof windows in all areas of the school and having devices that will keep doors from being opened if the windows are broken/shot out so that an intruder cannot enter the classroom.

—*Teacher*

I do not think guns will solve all of the problems, but I do think they would at least slow down those who come in our schools to shoot innocent, helpless individuals. I have a concealed handgun license (CHL) and think that if we could protect ourselves and others, we would have fewer deaths on school campuses. If we think about it, every place that is attacked and where lives are taken is a place where we as citizens are not allowed to carry our concealed handguns.

—*Teacher and dyslexia coordinator*

Selected responses from members in SUBURBAN AREAS

I am in a portable and do feel that my students and I are vulnerable. My greatest fear is for those of us in portables. I am very far from my building. Something could happen, and no one would even know until my kids and I didn't show up for lunch. For that reason, I feel strongly that all portables should be removed and those classes brought inside the building. That would mean more money allotted to build schools or to expand existing schools. Preferably, more schools would be built. Our schools are too large now. I have always taught in schools with student populations of more than 700—way too large.

—Elementary teacher

The American family is breaking down. Back the problem up to the “shooter” and the problems that he/she has due to family dysfunction. [These are] manifested in our students, too. Our country needs to return to godly standards and allow God and prayer back in our schools. That is our best defense and best offense in a culture that is becoming more about self than helping those around us. Our classrooms are a reflection of our society, and we need to work at the root of the problem. Our families are in trouble. We need to help them. Then perhaps some of the problems we deal with in education will be eased.

—Elementary teacher

Educators who hold a CHL should be allowed to bring their firearms to school and place them in secure lockboxes in their classrooms.

—ESL teacher

IS THE ANSWER ARMING EDUCATORS?

I believe districts are doing all they can do with the funds available to them. If more security is needed, then the state needs to come through with monetary support.

—K-5 intervention teacher

Build caring relationships with students and parents. Have a better understanding of mental illness and easier opportunities to obtain treatment for children.

—Paraprofessional

Quickly ID and *follow through* with treatment of students with mental issues while they are young. Throw out the automatic stigma associated with the term, and get kids help in kindergarten and first grade *before* they hurt others and themselves.

—Paraprofessional

I feel local police should have an armed presence on our campuses. They should come to the school at random times and days so a shooter cannot plan around them.

—Student teacher

Administrators should be trained and licensed to carry a firearm.

—Teacher

Educators need to be trained how to spot an armed student or to identify the type of behavior that precedes these incidents. They should receive all the training of an air marshal, but they should not carry weapons.

—Teacher

IS THE ANSWER INCREASING SECURITY?

Put real emergency action plans in place. Be consistent—rules are only in place for a few weeks following a tragedy but then become lax. Ensure more secure entrances. Install better security cameras. Empower students with knowledge about how to handle a crisis.

—Teacher

Selected responses from members in URBAN AREAS

At the very least, there should be armed security at every campus, and we need to stop advertising that schools are a gun-free zone. That is like painting a bull's-eye on schools and telling the bad guys/crazies that if they go in shooting, no one will be shooting back!

—Classroom teacher

IS THE ANSWER MORE FOCUS ON MENTAL HEALTH?

Random acts of violence should not dictate our approach to everyday safety. Have an emergency operations plan, know your plan, and follow it if anything should happen. Making a school a fortress is not the environment our children need at school.

—Director of transportation

Decide if all of the “beautiful” windows at entrances and other doors could be improved for better safety.

—Elementary teacher

Secure our buildings. Keep all doors locked, exterior and interior. Continue to practice drills for all types of disasters. Administration should constantly walk the building, as should ISD police. *Do not* put guns in our buildings. I will not teach when I need to worry about a co-worker with a gun, period.

—Elementary teacher

Firearms are not the answer to school security problems. Common sense, locked-door policies, ID checks or background checks for visitors, and emergency plans are what will help. Add a panic button and bulletproof glass to the lobby area to protect the receptionist and alert the school staff and students of an intrusion. The chances of an accident or a shooting involving a concealed weapon are greater than the chances of an armed attacker. Human tempers can flare, and having a gun that can be accessed by mistake or on purpose is an invitation to trouble. How would a teacher with a CHL feel if his or her gun was involved in an accident or altercation at the school?

—Kindergarten teacher

Parents should and will refuse to allow their children to attend a school with armed teachers. As a professional, I will not work in a school where my peers are carrying concealed handguns.

—Kindergarten teacher

I feel that armed security personnel, not armed teachers, will improve the security of our schools. I want my child's teacher to be concerned about keeping my child safe first and not attempting to get her gun. Teachers have enough that they are expected to do; let's not add one more thing to their plates. Let the professional security personnel take care of this for them.

—Student teacher

All schools should have either one armed guard at all times or teachers qualified to carry arms. The fact that schools are armed should be advertised to the general public so they are no longer known as “gun-free” zones.

—Substitute teacher

Individual school districts should decide rather than one size fits all.

—Teacher

IS THERE AN ANSWER?

I know too many teachers who are already “loose cannons” at school, and I shudder to think what they would do if they snapped or were pushed too far.

—Retired educator

There is no way to make a school entirely safe without compromising the vision of a school where everyone—students, teachers, parents and community—works together for students.

—Teacher

WHAT EDUCATORS NEED TO KNOW

A brief review of laws regulating firearms on school grounds

The law regulating the possession of firearms on school grounds and at school events—as it exists at the time of writing—is difficult to easily decipher because federal law and the state Penal Code, Labor Code and Education Code all include provisions that affect who can possess a firearm and when and where a firearm can be possessed. The following information synthesizes all of the separate statutory provisions into one document. Please note that the rules described here do not apply to commissioned peace officers or a limited number of other specifically designated state officials.

If your district does not have a policy

As explained below, the law allows a school district board to adopt a local policy that can either restrict or expand a district employee's ability to lawfully possess a firearm on school grounds or at school events. But if a school district has not adopted a local policy regarding the possession of firearms, the law creates a distinction between employees who possess a current, valid Texas concealed handgun license (CHL) and those who do not:

- ▶ A school employee who does *not* possess a valid Texas CHL may not intentionally, knowingly or recklessly possess a firearm on school property, on school grounds, in school vehicles or at school-sponsored events.
- ▶ A school employee who *does* possess a valid Texas CHL may bring a firearm into the school parking lot, into a garage or another parking area, onto the street, or onto the sidewalk or walkway. An employee may not, however, intentionally, knowingly or recklessly carry a firearm into a school building or any portion of a building or possess a firearm at a sporting event or an interscholastic event *unless* the firearm is used in the event and the holder is a participant in the event.

If your school district has a policy

The law allows individual school districts to adopt official policies that either restrict the rights of a school employee to possess a firearm on school grounds or at school events or expand that right. Thus, current law allows for a high degree of local control over the issue.

A school district can adopt an employment policy that prohibits possession of a firearm on all school grounds—including parking areas and sidewalks and even by staff members who hold a valid Texas CHL. Violation of such a policy can lead to negative employment action against the staff member who violated the policy—just like the violation of any other district policy.

A school district can also adopt a policy that authorizes designated staff members to bring a firearm into locations, such as school buildings, that would be otherwise off limits. The law only provides a general statement that the general prohibition of firearm possession exists “unless pursuant to written regulations or written authorization,” so there is very little in guidance or regulation as to what a district contemplating a policy should consider.

Liability for firearm-related injury

As anyone who drives a car knows, we can be held liable or financially responsible for injuries for which we are held legally responsible. There is great potential liability for anyone carrying a firearm simply because of the risk of serious injury. These risks are only increased in a school setting where children are present. The danger to educators who possess a firearm at school is magnified by the fact that the immunities that shield educators from financial liability in much of their professional lives are much weaker in the context of firearms. Again, the law is complex because there is potential liability under both federal and state law.

Liability under federal law

A student or other person injured by a firearm can claim that the incident violated his federally protected right to be free from bodily injury. Qualified immunity protects an educator performing discretionary functions in good faith so long as the act does not violate a clearly established right. **Note that the immunity applies only to discretionary acts, or things the educator can choose to do or not do.** Here's an example of why this is so crucial to understand: Say local policy requires that guns be kept in a locked cabinet. An educator forgets to lock the cabinet, and a student gets the gun and injures herself or someone else. The educator could well be held liable because she was required (in other words, there was no discretion) to lock the cabinet but failed to do so.

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Liability under state law

Like federal law, the Texas Education Code provides immunity from liability for an educator's actions taken within the scope of employment that involve the exercise of judgment or discretion, but it provides no immunity for ministerial acts (i.e., required actions that do not involve discretion). So again, an educator could find himself held financially liable if an injured party can claim that the educator failed to do something he was required to do under local policy or did something that was prohibited by local policy. Although it is left to an individual district to establish its own policy, it is likely that most policies will have many specific requirements in order to limit the district's liability. This can result in increasing the educator's liability.

So, firearms dramatically increase the risk of injuries, which increase the risk of claims for financial responsibility, while simultaneously decreasing the strength of the immunity protections that normally limit educators' risk of financial liability. Of course, we all engage in one activity that involves risk—driving to work. We mitigate the risk by obtaining auto liability insurance. The final piece to this puzzle is that it is unlikely that an educator would be able to obtain insurance to cover the potential liability of firearms. Because of the great risks involved, it is unlikely that an insurer would be willing to provide anything but minimal coverage. 🌀