



## Metro Bureau

### Executive Board Meeting – September 14, 2018

#### Open Carrying in Polling Places

1. The Michigan Supreme Court recently **upheld the rights of school districts to adopt and implement policies that regulate firearms on school property.** See *Michigan Gun Owners, Inc v Ann Arbor Pub Schs*, \_\_ Mich \_\_ (2018).
  - a. The Court held that school districts are not precluded from adopting and implementing policies that regulate firearms on school property by the Michigan Firearms and Ammunitions Act, which restricts “local units of government” from enacting or enforcing an ordinance or regulation regarding the ownership, registration, purchase, or possession of firearms.
  - b. The Court reviewed the plain language of the Act’s definition of “local unit of government,” which is “a city, village, township, or county,” and held that the Act clearly does not prevent school districts from adopting policies that regulate firearms on school property.
    - i. This clear statutory language made it unnecessary to conduct a field preemption analysis.
    - ii. The Court’s majority declined to decide whether the policies were barred by conflict preemption, finding that the appellants had abandoned this issue.
    - iii. The Court did not decide issues of conflict between school district policies that regulate firearms on school property and other laws or rights, such as criminal laws or the constitutional right to vote.
2. Despite the Supreme Court’s decision, school districts **may be limited in their authority to enforce policies** that regulate firearms **against individuals who enter school property to vote** for the following reasons:
  - a. **Individuals have a fundamental, constitutionally-protected right to vote.** *Reynolds v Sims*, 377 US 533, 561 (1964); see also *Mejia v Holt Pub Schs*, 2002 WL 1492205 (WD Mich, 2002).
    - i. Therefore, any infringement on the right to vote will be evaluated using a strict scrutiny, standard of review which would require school districts to establish their firearms policies are narrowly tailored to advance a compelling governmental interest.
  - b. **Polling places are regulated by cities, townships, and counties**, which are considered “local units of government” under the Michigan Firearms and Ammunition Act (the “Act”).
    - i. Local units of government are expressly prohibited from regulating firearms under the Act.
    - ii. In contrast, school districts are not classified as “local units of government” under the act and, thus, are not expressly preempted from regulating firearms. This was an important component of the Court’s holding in *Michigan Gun Owners, Inc v Ann Arbor Pub Schs*.
  - c. Ann Arbor Public Schools argued to the Michigan Supreme Court that school districts’ authority to regulate firearms comes in part from their obligation and authority to minimize disruption in the educational environment when students are present and to provide for the safety, welfare, and education of students pursuant to the Revised School Code, MCL 380.11a(3)(a)-(b).
    - i. However, it is untested how the Michigan Supreme Court would decide a case balancing an individual’s fundamental right to vote against a school districts’ authority to minimize disruption in the educational environment and provide for the safety, welfare, and education of students.
3. **Alternatives to Enforcing Policies that Regulate Firearm Policies at Polling Places:**
  - a. Do not schedule school on election days.
  - b. Opt out of agreements with local municipalities to use school buildings as polling places.
  - c. If school cannot be cancelled and school must be held on site, hold voting in a segregated area of the building away from students with separate ingress/egress for voters and implement extra security measures.