



**Waxahachie Independent School
District**
411 North Gibson Street
Waxahachie, TX 75165
972-923-4631
www.wisd.org

Called Meeting | AGENDA
Monday, June 24, 2024
8:00 AM
Live Stream:
<https://www.youtube.com/waxahachieisd>

A Called Meeting of the Board of Trustees of Waxahachie Independent School District will be held Monday, June 24, 2024, beginning at 8:00 AM in the Waxahachie ISD Administration Building, 411 N. Gibson St., Waxahachie, TX 75165.

The subjects to be discussed or considered or acted upon which any formal action may be taken are listed below. Items do not have to be taken in the same order as shown on this meeting notice. Unless removed from the consent agenda, items identified within the consent agenda will be acted on at one time.

- I. CALL TO ORDER.
 - A. Announcement by the presiding officer that a quorum is present, that the meeting has been duly called, and that notice of the meeting has been duly posted for time and manner required by law.
- II. CLOSED SESSION. Section 551.001 et seq. (if necessary)
 - A. Deliberation regarding the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee, including discussing complaints, hiring, resignation, termination, proposal for non renewal, proposal for termination, evaluation, promotion or demotion of personnel. Gov't Code 551.074
 - B. Deliberating the purchase, exchange, lease or value of real property. Gov't Code 551.072
 - C. Deliberation regarding security devices, personnel deployment, or security audits. Gov't Code 551.076.
 - D. Consulting privately with the board's attorney concerning contemplated litigation. Gov't Code 551.071.
- III. RECONVENE TO OPEN SESSION.
- IV. OPEN FORUM: Hearing of individuals or committees.**
- V. ACTION ITEMS.
 - A. Consideration with possible action to hire the Director of Fine Arts. 3
 - B. Consideration with possible action to approve an amended school marshal resolution authorizing Waxhachie ISD's school marshals to openly carry firearms on a duty belt, as recently recognized by the Texas Attorney General and recommended by the WISD Crisis Management Team. 4
- VI. ADJOURN.

If, during the course of the meeting, a discussion of any item on the agenda should be held in a closed meeting, the board will conduct a closed meeting in accordance with the Texas Open Meetings Act, Texas Government Code, Chapter 551, Subchapters D and E or Texas Government Code section 418.183(f). Before any closed meeting is convened, the presiding officer will publicly identify the section or sections of the Act authorizing the closed meeting. All final votes, actions, or decisions will be taken in open meeting. [See BEC(LEGAL)]

Regular meetings of the Waxahachie ISD Board of Trustees begin at 5 p.m. To respect the time of those being recognized, recognitions will not begin before 6 p.m., and agenda items may be taken out of order

to accommodate recognitions. Those being recognized are asked to arrive by 6 p.m.

*Audience participation is limited to the time allotted for those individuals who submit a Public Comment Card indicating the agenda or non-agenda topic they wish to address. At all other times during Board Meetings, the audience shall not enter into discussion or debate on matters being considered by the Board, unless requested by the presiding officer. Speaker presentation time will be set by the Board President at the Board dais. No action may be taken regarding the information received by the Board.

**In accordance with state law, public comment may not be used to voice a complaint involving the naming of specific individuals, including but not limited to the names of district employees or students, even if the matter is listed on the agenda. Additionally, no information that may be reasonably linked to an individual person may be spoken about during public comment. All complaints may be directed through the appropriate administrative channels before being presented to the Board:

Students/Parents – Board Policy FNG(LOCAL);
Employee – Board Policy DGBA(LOCAL); or,
Community Member – Board Policy GF(LOCAL).

This agenda (one or more pages) is part of a document entitled NOTICE OF MEETING in accordance with the Texas Open Meetings Act, Texas Government Code Chapter 551. The Waxahachie ISD Administration Building, Board Room, 411 North Gibson Street, Waxahachie, Texas, 75165 is wheelchair accessible. A curb slope entry is available at the rear entrance.

**Waxahachie Independent School District
BOARD OF TRUSTEES**

Date: June 24, 2024 **Presented By:** Theresa Burkhalter

Subject: Director of Fine Arts **Related Page(s)** _____

**Action
Agenda Item**

EXECUTIVE SUMMARY:

To hire the Director of Fine Arts

		BOARD PRIORITY GOALS
	Priority #1	Student Growth
	Priority #2	Honor and Support Staff
X	Priority #3	Community and Stakeholder Relationships
	Priority #4	Financial Integrity

RECOMMENDATION:

To approve the hiring of the Director of Fine Arts.

**Waxahachie Independent School District
BOARD OF TRUSTEES**

Date: June 24, 2024 **Presented By:** Lee Auvenshine

Subject: Resolution authorizing school marshals to
openly carry firearms on duty belts **Related Page(s)** Resolution and
Attorney General
Opinion KP-0454



EXECUTIVE SUMMARY:

The Board of Trustees adopted the School Marshal Program in 2018 under Section 37.0811 of the Texas Education Code. Throughout its utilization of the Marshal Program, armed school marshals have been assigned each day to all campuses where students have been present in Waxahachie ISD since the beginning of the 2018-19 school year. Pursuant to the express language of the statute, the firearms carried by WISD’s armed school marshals have always been concealed.

In January 2024, the Texas Attorney General determined that a board of trustees of a school district has the requisite authority under Section 37.0811 of the Texas Education Code to authorize school marshals to openly carry firearms on duty belts. Following the issuance of Texas Attorney General Opinion KP-0454 (2024), Waxahachie ISD administrators worked earnestly with the leadership of the Waxahachie Police Department to develop a plan for appropriate and adequate equipment and training to facilitate the potential change from concealed carried firearms by school marshals to openly carried firearms.

The WISD Crisis Management Team thoroughly discussed all facets of the potential change on April 10, 2024, and again on June 12, 2024. At its most recent meeting, the WISD Crisis Management Team unanimously adopted an action item recommending the WISD Board of Trustees authorize school marshals to openly carry of firearms on duty belts, under the authority recently recognized by the Texas Attorney General.

Attached is an amended resolution regarding school marshals, substantially similar to the one originally approved by the Waxahachie ISD Board of Trustees on July 23, 2018, with the exception of removing language regarding the concealed carry of handguns and expressly authorizing the open duty belt carry of firearms as addressed by the Texas Attorney General within Opinion KP-0454 (2024).

		BOARD PRIORITY GOALS
X	Priority #1	Student Growth
X	Priority #2	Honor and Support Staff

	Priority #3	Community and Stakeholder Relationships
	Priority #4	Financial Integrity

RECOMMENDATION:

Administration recommends approval of the attached amended resolution authorizing Waxahachie ISD's school marshals to openly carry firearms on a duty belt, as recently recognized by the Texas Attorney General and recommended by the WISD Crisis Management Team

**WAXAHACHIE ISD
BOARD REGULATIONS GOVERNING SCHOOL MARSHALS**

**The purpose of these regulations is to meet the requirements of
WISD Board Policy CKE (LEGAL)/(LOCAL) and CKEB (LOCAL)**

- 1) A Waxahachie ISD (“district”) school marshal may make arrests and exercise all authority given to peace officers under Section 2, Chapter 2, Article 2.127, Code of Criminal Procedure, but only to the extent necessary to prevent or abate the commission of an offense that threatens serious bodily injury or death of students, faculty, or visitors on school premises, provided, however, a district school marshal may not issue a traffic citation for a violation of Chapter 521, Transportation Code, or Subtitle C, Title 7 Transportation Code. A district school marshal may access a handgun only under circumstances that would justify the use of deadly force under Section 9.32 or 9.33 of the Penal Code.
- 2) A district school marshal may only carry an approved handgun (a) in compliance with the legal requirements for a school marshal certified by the Texas Commission on Law Enforcement TCOLE, and (b) as may be determined by the Board: (i) at a specific district campus/campuses; (ii) on any grounds or in any building where a district sponsored activity is being conducted; (iii) where a district high school sporting event or interscholastic event is taking place; (iv) at any meeting of the Board of Trustees, or (v) on a district passenger transportation vehicle. A district school marshal from the central office may carry an approved handgun on all district campuses, if authorized by the Board.
- 3) A Waxahachie ISD school marshal’s primary duty does not involve regular, direct contact with students, but rather relates to the provision of safety and security at all assigned campuses and facilities.
- 4) In reliance upon Texas Attorney General Opinion KP-0454 (2024) and under the authority provided under Section 37.0811(c) of the Texas Education Code, Waxahachie ISD school marshals are expressly authorized to openly carry handguns on duty belts.
- 5) Any approved handgun carried by or within access of a district school marshal must be loaded only with frangible ammunition designed to disintegrate on impact for maximum safety and minimal danger to others. Such frangible ammunition must be approved by the district.
- 6) A district school marshal’s status as a ‘school marshal’ becomes inactive on:
 - a. Expiration of the employee’s school marshal license under Occupations Code 1701.260.
 - b. Suspension or revocation of the employee’s concealed handgun license.
 - c. Termination of the employee’s employment with Waxahachie ISD.
 - d. Notice from the Board that the employee’s services as a school marshal are no

- longer required.
- e. Failure to demonstrate weapons proficiency to the satisfaction of the TCOLE or a TCOLE commissioned law enforcement agency, specifically including the Waxahachie Police Department.
 - f. Violation of any district policy or regulation applicable to a district school marshal.
 - g. Notice from the Superintendent or Superintendent's designee that the employee's services as a school marshal are suspended or revoked.
- 7) The district will provide appropriate duty handguns, frangible ammunition and locked and secured safes. The handguns provided by the district will meet the following requirements:
- a) The Waxahachie Police Department firearms training center will maintain a record of any handgun a district school marshal is authorized to carry.
 - b) The district's handguns for school marshals will be listed on the Waxahachie Police Department's approved firearm list.
 - c) All duty handguns to be carried by a district school marshal will be registered with the Waxahachie Police Department firearms training division by the marshal assigned to carry them.
 - d) The district will deliver all duty handguns to the Waxahachie Police Department firearms training center one time per year for inspection and registration by the Waxahachie Police Department firearms training staff. Each duty handgun will undergo a thorough inspection and will be test fired and evaluated for reliability and examined to see if it conforms to existing safety standards. Handguns that do not pass the safety inspection may not be used by a district school marshal.
 - e) The list of approved duty handguns may change during the school year so long as each handgun meets the requirements hereof before it is used in service.
- 8) A district school marshal must complete and pass the TCOLE weapons qualification course at least two (2) times per year at a firearms training center utilized by TCOLE or a TCOLE commissioned law enforcement agency. A district school marshal must qualify with the district-owned firearm that has been registered to the school marshal with the firearms training center. A district school marshal must also demonstrate weapons proficiency to the satisfaction of the firearms instructors.
- 9) A district school marshal will be required to attend all active shooter trainings as directed by the district each year.

*These local board written regulations addressing school marshals and school security will be a part of the district's multi-hazard emergency operations plan. For the safety and security of the district's employees and students, these written policies will not be made available pursuant to a request under the "Public Information Act". See Education Code 37.0811 {g}; Occupations Code 1701.260 {j}.

APPROVED BY THE WAXAHACHIE ISD BOARD OF TRUSTEES ON June 24, 2024.
THEREFORE, BE IT SO ORDERED.

Adopted this 24th day of June, 2024.

WAXAHACHIE INDEPENDENT SCHOOL DISTRICT

By: _____
Dusty Autrey, President
Board of Trustees

ATTEST:

By: _____
Debbie Timmermann, Secretary
Board of Trustees



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 23, 2024

The Honorable Brian Birdwell
Chair, Senate Committee on Natural Resources & Economic Development
Texas State Senate
Post Office Box 12068
Austin, Texas 78711-2068

Opinion No. KP-0454

Re: Whether a school district board of trustees has the authority under Education Code section 37.0811(c)(1)–(2) to adopt local procedures to allow uniformed school marshals to duty belt carry their firearm (RQ-0007-AC)

Dear Senator Birdwell:

You ask whether a school district board of trustees may adopt regulations allowing for “duty belt carry” of a handgun.¹ We understand the phrase “duty belt carry” to mean openly carrying a handgun in a holster attached to a belt of the type commonly worn by uniformed law enforcement officers. *See, e.g., City of Austin v. Howard*, No. 03-22-00439-CV, 2023 WL 1869645, at *1–2 (Tex. App.—Austin Feb. 10, 2023, no pet.) (mem. op.) (discussing a “duty belt” and related safety components). While you specifically reference Texas Education Code subsection 37.0811(c) and inquire about school marshals, we understand your question to encompass a school board’s broader authority to designate individuals, including school marshals, to duty belt carry a handgun for the protection of students and staff. Accordingly, we begin by reviewing this wider range of authority before moving on to address the specific provision you reference.

Our office has previously opined on what is commonly known as a “guardian plan.” *See generally* Tex. Att’y Gen. Op. No. GA-1051 (2014). The authority to implement such plans is derived from multiple sources. A school district board of trustees possesses “the exclusive power and duty to govern and oversee the management of the public schools of the district.” TEX. EDUC. CODE § 11.151(b); *see also Davis v. Morath*, 624 S.W.3d 215, 224 (Tex. 2021) (acknowledging the “broad authority” school boards enjoy under this provision). That authority is supplemented by Education Code section 11.1511, which requires a school board to “carry out other powers and duties as provided by this code or other law.” TEX. EDUC. CODE § 11.1511(b)(15). One such source

¹*See* Letter from Honorable Brian Birdwell, Chair, Senate Comm. on Nat. Res. & Econ. Dev., to Acting Att’y Gen. Angela Colmenero at 1 (Sept. 11, 2023), <https://www.texasattorneygeneral.gov/sites/default/files/request-files/request/2023/RQ00007AC.pdf> (“Request Letter”).

of “other law”—Penal Code section 46.03—generally prohibits a person from carrying a firearm on school premises. TEX. PENAL CODE § 46.03. However, as our office explained in GA-1051, subsection 46.03(a)(1) “creates an exception to the prohibition of carrying firearms on school premises for persons acting pursuant to a school district’s written regulations and authorization.” Tex. Att’y Gen. Op. No. GA-1051 (2014) at 3–4; *see also* TEX. PENAL CODE § 46.03(a)(1)(A) (providing that a person does not commit a criminal offense under that provision if he “possesses or goes with a firearm . . . on the premises of a school [or] on any grounds or building owned by and under the control of a school . . . pursuant to written regulations or written authorization of the school or institution”). These provisions, when read together, authorize a school board to implement a guardian plan that designates one or more individual employees to carry firearms on school premises. *See* Tex. Att’y Gen. Op. No. GA-1051 (2014) at 3 (“Under Education Code subsection 11.151(b), a board may promulgate written regulations and authorization as provided by Penal Code subsection 46.03(a)(1).”). Given its silence on what methods a school district may prescribe for the lawful carrying of a handgun, Penal Code section 46.03 cannot be construed to prohibit adoption of a policy that allows a school marshal to duty-belt carry a firearm. *See Tarr v. Timberwood Park Owners Ass’n, Inc.*, 556 S.W.3d 274, 291 (Tex. 2018) (“Nothing is to be added to what the text states or reasonably implies That is, a matter not covered is to be treated as not covered.” (quoting ANTONIN SCALIA & BRYAN A. GARNER, *READING LAW: THE INTERPRETATION OF LEGAL TEXTS* 93 (2012))).

Education Code sections 37.081 and 37.0814 provide another relevant legal framework. Section 37.081 authorizes a school district board of trustees to utilize security personnel that are employed as commissioned peace officers, school district peace officers, or school resource officers. TEX. EDUC. CODE § 37.081. Subsection 37.0814(a) states that a school board “must ensure that at least one armed security officer is present during regular school hours at each district campus.” *Id.* § 37.0814(a). In meeting this requirement, the armed security officer must be a school district peace officer, school resource officer, or commissioned peace officer employed as security personnel under section 37.081 unless the school board claims a good cause exception. *Id.* § 37.0814(b)–(c). Where such an exception is claimed, the school board “must develop an alternative standard with which the district is able to comply, which may include providing a person to act as a security officer” that does not fall within these three categories. *Id.* § 37.0814(d). This individual can be “a school marshal” or, alternatively, “a school district employee or a person with whom the district contracts” that “has completed school safety training provided by a qualified handgun instructor” and “carries a handgun on school premises in accordance with written regulations or written authorization of the district under Section 46.03(a)(1)(A), Penal Code.” *Id.* Again, nothing in these provisions prohibits the law enforcement personnel that fill such roles from engaging in their common practice of duty-belt carrying a firearm while providing school security.

With these other broad authorities in mind, we now turn to the specific provision about which you inquire. Section 37.0811 generally allows the board of trustees of a school district to “appoint one or more school marshals for each campus.” *Id.* § 37.0811(a). Subsection 37.0811(c) sets forth a school marshal’s authority as follows:

- (c) A school marshal appointed by the board of trustees of a school district or the governing body of an open-enrollment charter school

may carry a concealed handgun or possess a handgun on the physical premises of a school, but only:

- (1) in the manner provided by written regulations adopted by the board of trustees or the governing body; and
- (2) at a specific school as specified by the board of trustees or governing body, as applicable.

Id. § 37.0811(c). As with the other frameworks discussed above, nothing in subsection 37.0811(c) prohibits a school marshal from duty-belt carrying a handgun.² Neither does subsection 37.0811(d) prevent a school board from implementing a written policy that authorizes duty-belt carry on school premises. That provision addresses the content of the written regulations required by subsection 37.0811(c)(1):

(d) Any written regulations adopted for purposes of Subsection (c) must provide that a school marshal may carry a concealed handgun on the school marshal’s person or possess the handgun on the physical premises of a school in a locked and secured safe or other locked and secured location. The written regulations must also require that a handgun carried or possessed by a school marshal may be loaded only with frangible duty ammunition approved for that purpose by the Texas Commission on Law Enforcement.

Id. § 37.0811(d). Subsection 37.0811(d) sets a floor for a school marshal’s authorities regarding possessing a firearm, below which a school district board of trustees’ written regulations may not fall. Specifically, the provision requires a school board to allow a school marshal to “possess the handgun on the physical premises of a school in a locked and secured safe or other locked and secured location.” *Id.* By contrast, subsection 37.0811(c) establishes a ceiling for these authorities by authorizing a marshal to “possess a handgun on the physical premises of a school, but only . . . in the manner provided by written regulations adopted by the board of trustees” *Id.* § 37.0811(c)(1). Noticeably absent from subsection 37.0811(c) is any language limiting possession to “a locked and secured safe or other locked and secured location,” despite the Legislature’s clear demonstration in the very next subsection—subsection 37.0811(d)—that it knows how to include such limiting language. *Id.* § 37.0811(d). This omission is significant, as courts “presume the Legislature chose the statute’s language with care, purposefully choosing each word, while purposefully omitting words not chosen.” *In re Commitment of Bluit*, 605 S.W.3d

²On its face, the phrase “carry a concealed handgun” does not include duty belt carry because a handgun on the duty belt is not concealed. While the Legislature eliminated the “concealed” requirement related to licensure to carry a handgun in 2015, that legislation did not alter the “concealed” language with regard to school marshal authority or school board regulations in Education Code section 37.0811. *See* Act of May 29, 2015, 84th Leg., R.S., ch. 437, 2015 Tex. Gen. Laws 1706, 1706–22 (amending various statutory provisions related to subchapter H of chapter 411 of the Government Code). However, the phrase “possess a handgun” as used in subsection 37.0811(c) does not exclude duty-belt carry. *See* BLACK’S LAW DICTIONARY 257 (10th ed. 2014) (defining “carry” to mean “[t]o possess and convey (a firearm) in a vehicle, including the locked glove compartment or trunk of a car” (citing *Muscarello v. United States*, 524 U.S. 125 (1998))); *see also* *Muscarello*, 524 U.S. at 134 (observing the term “[c]arry” in the context of firearms “implies personal agency and some degree of possession”).

199, 203 (Tex. 2020). By limiting the scope of “possess” in subsection 37.0811(d) but not including the same restrictions in subsection 37.0811(c), the Legislature has provided each school board with some discretion to determine the extent of handgun possession by school marshals that best meets that district’s individual needs.

School district boards of trustees possess multiple avenues for allowing a designated individual to carry a handgun for the protection of students and staff, including implementing a guardian plan or utilizing a school security officer. Appointing a school marshal pursuant to Education Code section 37.0811 is another option for accomplishing this important policy goal. Because the authority to “possess” a handgun under subsection 37.0811(c) does not exclude the authority to duty-belt carry a handgun, a court would likely conclude that a school district board of trustees can adopt regulations authorizing a school marshal to “duty belt carry.”

S U M M A R Y

A school district board of trustees may designate an individual to carry a handgun for the protection of students and staff by implementing a guardian plan or utilizing a school security officer. Education Code section 37.0811 provides another option for accomplishing this purpose by generally allowing a school board to appoint one or more school marshals for each campus in the district. Subsection 37.0811(c) authorizes a school marshal to possess a handgun on the physical premises of a school, but only in the manner provided by written regulations adopted by the board of trustees. A school marshal possesses a handgun when it is openly carried on the marshal's duty belt. Therefore, a court would likely conclude that Education Code subsection 37.0811(c) authorizes a board of trustees to adopt regulations that allow a school marshal to duty belt carry a handgun.

Very truly yours,

A handwritten signature in black ink that reads "Ken Paxton". The signature is written in a cursive, flowing style.

KEN PAXTON
Attorney General of Texas

BRENT WEBSTER
First Assistant Attorney General

LESLEY FRENCH
Chief of Staff

D. FORREST BRUMBAUGH
Deputy Attorney General for Legal Counsel

AUSTIN KINGHORN
Chair, Opinion Committee

J. AARON BARNES
Assistant Attorney General, Opinion Committee