

**39th Annual School Law Conference**

February 15-16, 2024

Austin, Texas

**SCHOOL SAFETY IN A NEW WORLD****PRESENTED BY:**

KEN CULBREATH

ELLEN H. SPALDING

ALLYSON COLLINS

COBY WILBANKS

**Contact Information:**

Ken Culbreath  
Region 4 ESC – Houston TX  
[ken.culbreath@esc4.net](mailto:ken.culbreath@esc4.net)  
Telephone: 713-744-6526

Ellen H. Spalding  
Partner  
Spalding Nichols Lamp Langlois  
[espalding@snll-law.com](mailto:espalding@snll-law.com)  
Telephone: 713-993-7062

Allyson Collins  
Lake Travis ISD  
[collinsa@ltidschools.org](mailto:collinsa@ltidschools.org)  
Telephone: 512-533-6483

Coby Wilbanks  
Fort Bend ISD  
[Coby.Wilbanks@fortbendisd.com](mailto:Coby.Wilbanks@fortbendisd.com)  
Telephone: 281-634-1000

## **Challenges and Opportunities from 2023 Legislative Session – School Safety**

[Texas Education Agency School Safety Resources Pages](#)

[TEA 88th Legislature School Safety Bill Review](#)

[TEA Legislative Update: House Bill 3](#)

### **A. INTRODUCTION**

Flexibility is the word for 2023-2024 and beyond in the realm of school safety. House Bill 3 ushered in the latest chapter in Texas School Safety with a significant expansion of school safety requirements and oversight. Educators, school law practitioners, and school safety experts are navigating a number of common concerns and issues as we progress from understanding legislative requirements through decision-making and into implementation. This topic and paper addresses a number of these common concerns identified by educators and practitioners around the State.

### **B. ISSUES RELATED TO SECURITY PERSONNEL/STAFFING**

#### **1. Expansion of Allowable Security Personnel**

*Change in Law*

HB 3 SECTION 8. Section 37.081, Education Code, is amended by amending Subsection (a) and adding Subsections (a-1), (a-2), (a-3), and (a-4) to read as follows:

- (a) The board of trustees of any school district may:
- (1) employ or contract with security personnel;
  - (2) ~~[5]~~ enter into a memorandum of understanding with a local law enforcement agency or a county or municipality that is the employing political subdivision of commissioned peace officers for the provision of school resource officers;
  - (3) for the purposes of providing security personnel, contract with a security services contractor licensed under Chapter 1702, Occupations Code, for the provision of a commissioned security officer, as defined by Section 1702.002, Occupations Code, who has completed the Level II or III training course required by the Department of Public Safety; [5] and
  - (4) commission peace officers to carry out this subchapter.
- (a-1) ~~[If a board of trustees authorizes a person employed as security personnel to carry a weapon, the person must be a commissioned peace officer.]~~ The jurisdiction of a peace officer, a school resource officer, or security personnel under this section shall be determined by the board of trustees and may include all territory in the boundaries of the school district and all property outside the boundaries of the district that is owned, leased, or rented by or otherwise under the control of the school district and the board of trustees that employ or contract with, as applicable, the peace officer or security personnel or that enter into a memorandum of understanding for the provision of a school resource officer.

(a-2) A memorandum of understanding for the provision of school resource officers entered into under Subsection (a) must:

(1) be in the form of an interlocal contract under Chapter 791, Government Code; and

(2) use a proportionate cost allocation methodology to address any costs or fees incurred by the school district or the local law enforcement agency, county, or municipality, as applicable.

(a-3) The cost allocation methodology used under Subsection (a-2)(2) may allow a local law enforcement agency, county, or municipality, as applicable, to recoup direct costs incurred as a result of the contract but may not allow the agency, county, or municipality to profit under the contract.

(a-4) A school district, local law enforcement agency, county, or municipality that enters into a memorandum of understanding under Subsection (a) may seek funding from federal, state, and private sources to support the cost of providing school resource officers under this section.

### *Implications and Considerations*

Districts now may contract with security personnel or security services contractors, in addition to the option of employing their own security personnel or utilizing an Interlocal Agreement with a local law enforcement agency. When considering whether to contract with private security, applicable considerations include cost, availability, training requirements, supervision, and District control.

Notably, the use of private security does not immediately satisfy the new requirement for an armed security officer on each campus pursuant to Tex. Educ. Code 37.0814. A good cause exception is first required. Note the distinction between the terms: commissioned “peace officer” (defined in Tex. Occ. Code 1701.001(4)) and a “commissioned security officer” (defined in Tex. Occ. Code 1702.002). The armed security officer requirement is specifically limited to peace officers or school resource officers, a specific subset of peace officers. See, Tex. Occ. Code 1701.601.

## **2. Armed Security Officers**

### *Change in Law*

HB 3 SECTION 10. Subchapter C, Chapter 37, Education Code, is amended by adding Section 37.0814 to read as follows:

Sec. 37.0814. ARMED SECURITY OFFICER REQUIRED. (a) The board of trustees of each school district shall determine the appropriate number of armed security officers for each district campus. The board must ensure that at least one armed security officer is present during regular school hours at each district campus.

(b) A security officer described by Subsection (a) must be:

(1) a school district peace officer;

(2) a school resource officer; or

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](http://utcle.org/elibrary)

## Title search: School Safety in a New World

First appeared as part of the conference materials for the  
39<sup>th</sup> Annual School Law Conference session

"School Safety in a New World"