

IN THE SUPREME COURT OF OHIO

ERIN G. GABBARD, *et al.*, :
 : Case No. 2020-0612
Plaintiffs-Appellees, :
 :
v. : Appeal from the Butler County Court of
 : Appeals, Twelfth Appellate District
MADISON LOCAL SCHOOL DISTRICT :
BOARD OF EDUCATION, *et al.*, : Court of Appeals Case No. CA2019-03-0051
 :
Defendants-Appellants. :

**BRIEF OF *AMICUS CURIAE* TEACHER EDUCATORS AND EDUCATIONAL
RESEARCHERS IN SUPPORT OF PLAINTIFFS-APPELLEES**

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TABLE OF CONTENTS

	Page
TABLE OF CONTENTS.....	i
TABLE OF AUTHORITIES	ii
INTRODUCTION	1
STATEMENT OF INTEREST OF <i>AMICUS CURIAE</i>	2
STATEMENT OF THE CASE AND FACTS	6
PROPOSITION OF LAW	9
R.C. 109.78(D)’s training requirements apply to all school employees, including school administrators, teachers, and support staff, if they carry a firearm in a school safety zone.	9
ARGUMENT IN SUPPORT OF PROPOSITION OF LAW.....	9
I. The State Requires Extensive Training To Become A Teacher And To Receive Other Endorsements—The Same Standards Should Apply Before Permitting Teachers To Carry Firearms On School Grounds.	10
II. Specialized Training For Handling Of Firearms In Schools Must Include More Robust Initial Screening And Ongoing Screening Thereafter.	13
III. Effective Training Requires A Multifaceted Approach Sustained Over Time.....	16
IV. Extensive Training Is Required Because Teachers Have To Develop a Host of Skillsets.....	18
V. Effective Training Enables Teachers To Understand The Lens Through Which They View A “Threat.”	21
VI. Proper Training Entails Addressing How Firearms In The Classroom Affect The Learning Environment.	24
CONCLUSION.....	26
CERTIFICATE OF SERVICE	27

TABLE OF AUTHORITIES

	Page
CASES	
<i>Martucci v. Akron Civ. Serv. Comm.</i> , 194 Ohio App.3d 174, 2011-Ohio-1782 (9th Dist.)	8
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R.C. 109.75(A).....	8
R.C. 109.78(D).....	<i>passim</i>
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INTRODUCTION

R.C. 109.78(D), by its plain language, applies to an armed teacher just as it applies to an armed police officer, armed security guard, or anyone else whom a school district employs who actually “goes armed while on duty.” The language does not impose a categorical test; it does not prescribe firearm training for positions that *normally* or *typically* involve being armed on duty. As such, *ejusdem generis* has no application here. Rather, the language imposes an as-applied test, requiring firearm training for individuals in positions “in which *such person* goes armed while on duty.” R.C. 109.78(D) (emphasis added). While the General Assembly may not have contemplated schools full of armed teachers when it drafted the statute, the statute plainly applies to them. Should the General Assembly wish to amend R.C. 109.78(D), that it is certainly its prerogative; but as it stands, the Twelfth District got it right. And there is an important reason that the Legislature decided to—and has not changed—this extensive training requirement.

As the Court decides this case, *amici curiae* would like the Court to understand the potential implications of allowing teachers to carry guns in classrooms without the requisite training. Without such training, the ramifications could be staggering. Innocent students and teachers are more likely to become victims of firearm violence in the classroom because they are misperceived as threats; accidental shootings of students will become more likely; authority and respect for teachers based on their expertise and position is replaced by authority based on fear because of the presence of a firearm in the classroom which, in turn, implicitly teaches students a lack of respect for authority; the successful use of nonviolent techniques to deescalate tense classroom situations becomes more difficult because the presence of a firearm heightens fear and gives a false sense that classroom violence will not occur; and the learning environment will be negatively affected because the presence of a firearm in the classroom affects students’ and

teachers' mutual sense of trust and perceptions of safety (both of which are needed for higher order learning). Therefore, if teachers are allowed to bring firearms into the classroom for the purpose of protecting students from firearm violence, then teachers need accurate and recurrent screening, and there must be extensive and ongoing training.

From the perspective of professors of education—those who study schools, learning, and educate fellow teachers across Ohio—extensive training would be necessary before any teacher should be able to carry a firearm in a classroom because the decision-making involved with carrying a firearm around students, as with many educational decision-making skills in a classroom, requires rigorous and repetitive training. Having teachers carry firearms in classrooms, especially if they are not extensively trained, will negatively impact the learning environment. Therefore, the Legislature's decision to require extensive training for a school employee carrying a firearm on duty under R.C. 109.78(D) is in accord with the educational research and expertise of Ohio's leading educational academics.¹

STATEMENT OF INTEREST OF *AMICUS CURIAE*

Amici curiae are teacher educators and educational researchers who have studied classroom education, teacher behavior, teacher development, and professional education

¹ The suggestion to arm teachers has been met with strong opposition by numerous education professionals and others, including: the National Education Association, the American Federation of Teachers, the National Association of School Resource Officers, the National Association of Secondary School Principals, and the National Association of School Psychologists, the National Association of Elementary School Principals, the National Association of Secondary School Principals, and the American Association of Colleges for Teacher Education. See Joshua Harris, *Standing Committee on Gun Violence's Report to the House of Delegates*, A.B.A. POLICY 19M106A (January 2019), https://www.americanbar.org/groups/public_interest/gun_violence/policy/19M106A/; *AACTE Statement on DeVos's Proposal to Arm Teachers*, BOARD OF DIRECTORS OF THE AMERICAN ASSOCIATION OF COLLEGES FOR TEACHER EDUCATION (Aug. 29, 2018), <https://aacte.org/2018/08/aacte-statement-on-devos-s-proposal-to-arm-teachers/>.

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STATEMENT OF THE CASE AND FACTS

The Professors adopt the Statement of the Case and Facts set forth in the merit brief of Plaintiffs-Appellees Erin Gabbard and coalition of parents. Additionally, for purposes of this brief, the Professors wish to highlight the principal differences in training requirements under the statutes at issue before explaining the research and rationale in requiring extensive training for a teacher to carry a firearm while on the job.

Ohio law broadly makes it illegal for anyone to carry a firearm on school grounds. *See* R.C. 2923.122(B). But there is a notable exception to the prohibition on carrying guns in school for persons authorized by a school board. R.C. 2923.122(D)(1)(a) permits “[a] person who has written authorization from the [school board] to possess a deadly weapon . . . in a school safety zone . . . in accordance with that authorization.” Even if a person is exempted from the general ban on carrying firearms in schools buildings, she must meet specific training requirements.

Pursuant to R.C. 109.78(D):

No public or private educational institution . . . shall employ a person as a special police officer, security guard, *or other position in which such person goes armed while on duty*, who has not received a certificate of having satisfactorily completed an approved basic peace officer training program, unless the person has completed twenty years of active duty as a peace officer.

(emphasis added).

On several occasions, the Legislature considered exempting teachers and other employees authorized to carry arms at school by a school board from the peace officer training requirement of R.C. 109.78(D). But the General Assembly consistently rejected attempts to exempt teachers, staff, and other persons authorized by a local school board to carry a firearm at

school from the peace officer training requirement in R.C. 109.78(D). As initially passed by the House in 1969, the provision that became R.C. 109.78(D) only required peace officer training for someone hired by a school as a special policeman, security guard, or person “in any similar position.” Am. Sub. H.B. No. 575, 108 House Journal 1347. The General Assembly chose not to adopt this language because it did not want to limit the peace officer training requirement to special policemen, security guards, or other “similar” security personnel in schools. Since that time, the legislature has twice tried to amend R.C. 109.78(D). In 2013, the House attempted to amend R.C. 109.78(D) to say that it “does not apply to a person authorized to carry a concealed handgun under a school safety plan adopted pursuant to section 3313.536 of the Revised Code.” 2013-14 Am. Sub. H.B. No. 8, Section 109.78 (as passed by the House). Again, in 2018, a similar bill was introduced. *See* 2017-18 Am. Sub. H.B. No. 693, Section 109.78 (as introduced). Neither bill passed into law. By contrast, the General Assembly passed House Bill 318, which was later signed into law in August 2018, thereby *increasing* the training requirements for school resource officers. The additional 40 hours of specialized training—beyond the already required basic peace officer training—is meant to address the unique role of law enforcement in a school environment. *See* R.C. 3313.951(B)(3)(c).

In April 2018, pursuant to R.C. 2923.122(D)(1)(a), Defendants-Appellants Madison Local School District Board of Education and Madison Local School District Superintendent Dr. Lisa Tuttle-Huff (collectively, “Madison Local”) adopted the “Resolution to allow armed staff in school safety zone.” April 24, 2018, Madison Local School District Board of Education Resolution to Allow Armed Staff in School Safety Zone. The resolution, along with the policy that implements it, allows “teachers, school support staff, administrators, and others approved” to carry firearms in the district's school buildings if they (i) have a concealed carry license; (ii) have

completed *24 hours* of active shooter training with an approved vendor; and (iii) have been designated by the Superintendent after a mental health examination and background check.”

Madison Local School District Firearm Authorization Policy.

The training requirements passed by Madison Local, however, drastically differ from the requirements set forth by Ohio Peace Officer Training Commission (“OPOTC”), the administrative body responsible for setting rules and approving programs for basic peace officer training. The principal difference between Madison Local’s policy and the training required pursuant to R.C. 109.78(D) is that the peace officer training program requires an individual to undergo a minimum of *728 hours* of training, divided into units and subunits. Ohio Adm. Code 109:2-1-16. R.C. 109.78(D) also materially differs from Madison Local’s training requirements because the training must take place at the Ohio Peace Officer Training Academy (“OPOTA”) or an approved local police academy. *Martucci v. Akron Civ. Serv. Comm.*, 194 Ohio App.3d 174, 2011-Ohio-1782, ¶ 2 (9th Dist.); R.C. 109.75(A) (allowing the executive director of OPOTC to approve peace officer training schools); R.C. 109.79 (establishing OPOTA). Individuals must also pass a criminal background check, a physical fitness test, and a drug screen.

The purpose of the training under the supervision of the OPOTC is “to provide the student with a strong basic knowledge of the role, function, and practices of a peace officer.” Ohio Adm. Code 109:2-1-16. Basic peace officer training addresses a host of skills areas, including, among others: safe handling of a handgun, proper handling of ammunition, training on how to shoot a handgun in a safe manner, critical injury first aid, building searches, use of force, subject control, crisis intervention, de-escalation, and critical incident stress awareness. *See Summary of Ohio’s Concealed Carry Laws*, Office of the Ohio Attorney General (Apr. 12, 2019) at 4, <https://www.ohioattorneygeneral.gov/Files/Publications-Files/Publications-for-Law->

Enforcement/Concealed-Carry-Publications/Concealed-Carry-Laws-Manual-(PDF).aspx;
Commander Manual for Peace Officer Basic Training, Office of the Ohio Attorney General (Oct. 2019) at 31, <https://www.ohioattorneygeneral.gov/Files/Publications-Files/Publications-for-Law-Enforcement/Law-Enforcement-Training-Publications/Peace-Officer-Basic-Training-Commander-Manual-Eff>.

By comparison, to comply with Madison’s Local’s resolution, educational staff have undergone private training through a 27-hour privately run program called “FASTER,” which stands for Faculty/Administrator Safety Training & Emergency Response. Appellants’ Opening Brief, *Gabbard v. Madison Local Sch. Dist. Bd. of Edn.*, 2020-Ohio-1180 at 4. The three-day program is structured to be a mini SWAT course with a focus on firearms skills, tactics for hunting killers, locking down and/or ambushing, force on force scenarios for stress inoculation, weapon retention, deep concealment tactics. Chris Cerino, *FASTER Saves Lives: How Ohio is Arming and Training School Staff*, RECOIL MAG. (Feb. 25, 2018), <https://www.recoilweb.com/ohio-is-arming-and-training-school-staff-135340.html>.

PROPOSITION OF LAW

R.C. 109.78(D)’s training requirements apply to all school employees, including school administrators, teachers, and support staff, if they carry a firearm in a school safety zone.

ARGUMENT IN SUPPORT OF PROPOSITION OF LAW

R.C. 109.78(D) sets forth the parameters that school districts must follow when employing armed individuals in their schools. R.C. 109.78(D) is clear: all school employees in a “position in which such person goes armed while on duty” must have completed the state’s basic peace officer training program, unless they have already served for 20 years as a peace officer. *See* R.C. 109.78(D). This includes those persons acting in non-security roles who choose to

voluntarily carry a weapon in a school building. Thus, Madison Local’s resolution at issue here, which allows non-security personnel to carry weapons on school grounds *without* completing the training required under R.C. 190.78(D), is unlawful. Madison Local’s end-run around proper training could yield dire consequences. Accordingly, the Professors fully support Plaintiffs-Appellees positions taken on the arguments made in the merits brief and urge this Court to uphold the decision of the Twelfth District Court of Appeals: Madison Local’s resolution violates R.C. 109.78(D).

I. The State Requires Extensive Training To Become A Teacher And To Receive Other Endorsements—The Same Standards Should Apply Before Permitting Teachers To Carry Firearms On School Grounds.

The Ohio Department of Education requires extensive teacher training to become a teacher and, once licensed, a teacher must continue to earn learning education credits throughout the lifetime of her career. Ohio requires all teachers to hold a bachelor’s degree, which requires a minimum of 120 credit hours; complete an Ohio teacher preparation program, which encompasses 12 semester hours of coursework and a minimum of 12 weeks of student teaching; and pass the Ohio Assessments for Educators series of tests, which consists of two parts: pedagogical knowledge (teaching skills) and content-area knowledge. *The Ohio Teaching and Certification Resource*, TEACHER CERTIFICATION DEGREES, <https://www.teachercertificationdegrees.com/certification/ohio/> (last accessed Oct. 1, 2020). Of course, teachers must also submit to state and federal background checks and complete fingerprinting. After completing all of these requirements, applicants must then actually apply for a license—this process can take up to three months. *Id.* Finally, depending on where a person may want to teach, individual districts have their own set of requirements. *Id.* To renew one’s teacher license, she must complete six semester hours of coursework related to classroom teaching and/or the area of licensure, or she

must fulfill 18 continuing education units, consisting of 180 contact hours. *How to Renew a Five-Year Professional, Advanced or Associate License*, OHIO DEP'T OF EDUC., <http://education.ohio.gov/Topics/Teaching/Licensure/Renew-Certificate-License/How-to-Renew-a-Currently-Valid-Five-Year-Professio> (last updated June 26, 2020).

Moreover, if a teacher wishes to be deemed a specialist in a certain area or receive a specific endorsement, she must receive additional extensive training. For example, to receive a reading endorsement, the Ohio Department of Education requires someone who already has a teaching license a minimum of 12 credit semester hours of graduate level courses, which is typically defined as four graduate level courses typically consisting of three hours per week of class time plus twice as many hours of work outside class (e.g., reading, writing, projects, etc.) with a semester being 15 weeks. Guidance Document: Reading Endorsement Programs, Ohio Board of Regents (Feb. 14, 2013), <https://education.ohio.gov/getattachment/Topics/Early-Learning/Third-Grade-Reading-Guarantee/Third-Grade-Reading-Guarantee-Teacher-Resources/Reading-Endorsement-Guidance-Document.pdf.aspx>. So, to receive a specific endorsement, a teacher must typically clock 135 hours per course multiplied by a minimum of four courses for a total of *540 hours*. For example, at The Ohio State University, where some of the Professors work, 12 credit hours (540 clock hours) is a minimum required for a reading endorsement with most teachers needing to take a larger number of graduate level credit hour courses and a practicum depending on how many of the prerequisites they have accomplished in their previous teacher education. Department of Teaching and Learning Reading Endorsement Requirements, The Ohio State University, College of Education and Human Ecology (July 2019), <https://ehe.osu.edu/sites/ehe.osu.edu/files/curriculum-sheet/reading-endorsement-program-sheet.pdf>.

It would be discordant for the General Assembly to have been so concerned about the training for school resource officers with House Bill 318, yet allow school boards to arm teachers, coaches, support staff, and other school employees with only 24 hours of active shooter training. To understand the inadequacy in Madison Local’s policy, one must only look to Ohio laws pertaining to other trades—jobs that do not carry with them potentially deadly repercussions. To become a licensed barber, an individual must undergo 1800 hours of training, R.C. 4709.07(B)(4); to become a licensed massage therapist, an individual must undergo 750 hours of training, Ohio Adm. Code 4731-1-16(A)(1)(b); and to become a licensed nail technician, an individual must undergo 200 hours of training (plus eight additional hours if the technician is going to use an electric file), *see* Complaint, *Gabbard v. Madison Local Sch. Dist. Bd. of Edn.*, No. CV 2018 09 2028, No. CV 2018 09 2028 (Butler County Court of Common Pleas. Sept. 12, 2018); 200 Hour Manicuring Curriculum, Ohio State Cosmetology and Barber Bd. (Jul. 9, 2014), <https://bit.ly/2MiQPGZ>. Under Madison Local’s view, a barber requires 75 times more training than an employee who carries a firearm in the presence of children.³

The theme here is that each time an individual wishes to practice specific skillset—be it cutting hair or teaching a foreign language—that person must demonstrate proficiency in that skill before she is allowed to “serve” the public. To become licensed in the eyes of Ohio, that requires hundreds of hours of training. Madison Local’s policy ignores this fundamental precept.

³ Notably, law enforcement officers receive an average of 840 hours of basic training including 168 hours of training on weapons, self-defense, and the use of force. BRIAN A. REAVES, U.S. DEP’T OF JUSTICE, BUREAU OF JUSTICE STATISTICS, STATE AND LOCAL LAW ENFORCEMENT TRAINING ACADEMIES, 2013 at 4 (July 2016), *available at* <https://bit.ly/2pg0whI>.

II. Specialized Training For Handling Of Firearms In Schools Must Include More Robust Initial Screening And Ongoing Screening Thereafter.

If a school board decides to allow select teachers to bring a firearm to the classroom, the first step should be to screen any potential such teacher. Madison Local implicitly recognizes this because its policy requires authorized employees to complete a criminal background check, a drug screen, and a mental health evaluation.⁴ However, proper screening cannot be viewed as a gateway that an individual must pass through once; rather, it must be viewed as a revolving door that a teacher must pass through periodically over time.

Initially, the screening process should take into account where a teacher is at in her career. Pre-service teachers (in student teaching) and new teachers (teachers within their first five years of full-time teaching as a licensed teacher or within their first five years in a new school setting) differ from more veteran teachers in how they perceive the nature of a threat of violence. *See* Kimberly Williams & Ken Corvo, *That I'll Be Killed*, 4-1 JOURNAL OF SCHOOL VIOLENCE, Sept. 2008, at 47, 47–48. Thus, as part of screening, pre-service teachers and new teachers should be prohibited from bringing a firearm into the classroom given that research shows the likelihood of such teachers misconceiving the threat to their own lives and lacking the experience to assess situations, to de-escalate situations in which there may be conflict, and to over-react to situations of threat. *Id.*

Screening requires more than standard background checks and one-time mental health checks. *Proper* screening should be conducted by an authorized institution on a recurring basis. Recurring screening helps to ensure the predictability needed in both the ability of a teacher to engage in split-second decision making in a crisis situation and in the ability of a teacher to

⁴ Notably, Madison Local's armed staff do not have to "pass" the mental health exam; they are simply required to take one. *See* Madison Local School District Firearm Authorization Policy.

address the long-term effects on students and on the teacher herself of a having a firearm in the classroom. DALLAS S. DRAKE & ERICA YURVATI, CTR. FOR HOMICIDE RESEARCH, TEACHERS WITH GUNS: FIREARMS DISCHARGES BY SCHOOLTEACHERS, 1980 – 2012 at 3 (Aug. 1, 2013), *available at* [http://homicidecenter.org/wp-content/uploads/2018/02/ Teachers-with-Guns-RESEARCH-REPORT-FINAL-revised-2018.pdf](http://homicidecenter.org/wp-content/uploads/2018/02/Teachers-with-Guns-RESEARCH-REPORT-FINAL-revised-2018.pdf).

Teachers change based on experiences in their personal and professional lives. It makes sense then that such screening should occur periodically. For example, a teacher who was screened in a previous year, but who recently went through a personal trauma (such as a divorce, a death in the family, experiencing an act of violence) should not be allowed to carry a firearm in a classroom until there is surety that the personal trauma did not make her more likely to inappropriately use a firearm. Similarly, a teacher who takes any kind of medication that might affect or be on account of either cognition or mood is always at risk of not taking the medications or of the medications not being effective. In the case of Madison Local, specifically, the teachers endured a school shooting only four years ago. *See* Brief of Appellees, *Gabbard v. Madison Local Sch. Dist. Bd. of Edn.*, 2020-Ohio-1180 at 3–4. Because this trauma is still so recent, there is a real concern that teachers may mischaracterize a threat or overreact.

In addition, a teacher's ability to manage her classroom must factor into the screening process. *See* Dorothy Espelage et al., *Understanding and Preventing Violence Directed Against Teachers*, 68-2 AM. PSYCHOLOGIST, 2013, at 75, 77. That is, some teachers find it easy to manage a classroom in a business-like manner with very few student disciplinary and management issues while other teachers in similar classrooms struggle with classroom management and have frequent problems with student discipline and management. *See* CAROLYN M. EVERTSON & CAROL S. WEINSTEIN, *HANDBOOK OF CLASSROOM MANAGEMENT: RESEARCH,*

PRACTICE, AND CONTEMPORARY ISSUES (Carolyn M. Evertson & Carol S. Weinstein eds., 2013).

Those teachers who are not adept at classroom management are likely to have more situations in which there is a perception of a threat of violence. While classroom management can be taught, it takes time and in some cases teachers still do not become adept at classroom management. *Id.* Only those teachers who are adept at classroom management can effectively reduce tensions and confrontations in their classrooms; therefore only those teachers should be considered for authorization to bring a firearm to a classroom. *Id.*

Screening must also take into account a teacher's ability to handle stress under certain conditions. Teaching undoubtedly required a unique skillset. But, in a similar vein, rapidly and *safely* responding to an active shooter also requires a certain mindset. *See* ASIS INTERNATIONAL SCHOOL SAFETY & SECURITY COUNCIL, ACTIVE SHOOTER 14 (2016), *available at* https://www.asisonline.org/globalassets/publications-and-resources/security-topics/soft-target—active-shooter/active_shooter_wp_sssc.pdf. Teachers without training similar to police officers, are unlikely to have the ability to perform calmly in high-stress situations such as those in which use of a firearm might be needed. *See* Molly H. Fisher, *Factors Influencing Stress, Burnout, and Retention of Secondary Teachers*, 14-1 CURRENT ISSUES IN EDUCATION, 2011, at 1, 6, *available at* <http://cie.asu.edu/>. The role of a teacher inherently does not involve high-stakes situations in which life and death decisions must be made in seconds. Teachers, who may otherwise be excellent in working with students and facilitating their learning, even with training may not have the ability to perform calmly in a situation in which a firearm might be used. Therefore, a screening process should be used that can identify those individuals who are able to do both: manage a daily learning environment while being able to transition to the role of first responder in times of crisis. *See* Sheldon Greenberg, *Arming Teachers as a Means to Prevent and Mitigate*

School Shootings: Assumptions, Readiness, and Contrast to Law Enforcement Officers Involved in Encounters with Armed Assailants at 7 (Johns Hopkins Univ., Bloomberg Sch. of Pub. Health, Working Paper Sept. 2020).

Proper screening is meant to keep firearms out of those who should not possess them in the first place. Therefore, a comprehensive screening process should take into account a teacher's time in the position, account for a teacher's classroom management skills, provide for recurring mental health assessments, and ensure that an individual can pass the requisite stress tests.

III. Effective Training Requires A Multifaceted Approach Sustained Over Time.

Currently, teacher education and training at both the pre-service and in-service levels involves little to no attention to violence or the threat of violence in the classroom. *See* Espelage, *supra* at 14, at 79–80. Because there are no foundations on which to build, teacher training would need to be extensive and ongoing.

Effective training leverages several different learning processes: (1) cognitive learning, which includes knowledge acquisition, knowledge use, and adaptive expertise; (2) affective learning, which includes harnessing attitudes, emotions, habits, and instincts; as well as (3) physical learning, which includes physical movements, describing the feelings associated with certain actions, and using physical objects such as a firearm. *See* Leslie Owen Wilson, *Three Domains of Learning – Cognitive, Affective, Psychomotor*, THE SECOND PRINCIPLE, <https://thesecondprinciple.com/instructional-design/threedomainsoflearning/> (last visited Oct. 4, 2020). Through a broad range of techniques, each of these learning domains can be encompassed. Research has shown that, to be effective in supporting change in teacher practices, professional development initiatives must address the three domains of learning processes noted

above, prepare individuals for the specific range of situations in which the new skills might be used, take into account the diverse experiences and personal qualities that teachers would bring to such training, provide an opportunity for teachers to practice the new skills and receive feedback as they progress through their training, and require extensive time and need to be recurrent. *See* LIND DARLING-HAMMOND ET AL., CA: LEARNING POLICY INSTITUTE, EFFECTIVE TEACHER PROFESSIONAL DEVELOPMENT at v (2017), *available at* https://learningpolicyinstitute.org/sites/default/files/product-files/Effective_Teacher_Professional_Development_REPORT.pdf. The Learning Policy Institute’s report emphasizes, and the Professors concur, that effective training must be built on research-based effective practices for teacher professional development. In brief, such practices include: (1) being content focused, (2) active involvement of teachers in their learning, (3) collaboration among teachers so that they can support each other’s learning, (4) provide models of effective practice so that teachers can visualize various ways in which effective practice might be accomplished, (5) include ongoing coaching and expert support, (6) provide feedback and opportunities for reflection, and (7) is of sustained duration. *Id.* Research conclusively shows that these practices cannot be cherry-picked; rather, “[e]ffective professional learning incorporates most or all of these elements” *Id.* at 5–15. Simply put: to train teachers effectively requires incorporating most, if not all, seven practices.

Of the seven best practices identified above, training “of sustained duration” is the most critical. *Id.* at 15–16. This is because through repetition and the introduction of stressors, muscle memory is developed; in an actual combat scenario, reaction is almost instinctual. *See* Tyler Bonin, *Teachers Are Not Soldiers*, THE ATLANTIC (Mar. 3, 2018), <https://www.theatlantic.com/education/archive/2018/03/teachers-are-not-soldiers/554783/>. The takeaway is that true development occurs over time—something that simply isn’t possible by attending a one-time

only crash course on SWAT tactics, such as FASTER.

IV. Extensive Training Is Required Because Teachers Have To Develop a Host of Skillsets.

Responding effectively to an active-shooter situation is one of the toughest challenges for even a trained marksman. Empirical evidence shows that even police officers, who are trained specifically for violent encounters, often fail to fire their weapons accurately in a sudden crisis situation. See Greenberg, *supra* at 15, at 8; Michael D. White, *Hitting the Target (or Not): Comparing Characteristics of Fatal, Injurious, and Noninjurious Police Shootings*, 9-3 POLICE QUARTERLY, Sept. 2006, at 303–330; Arne Nieuwenhuys & Raoul R.D. Oudejans, *Effects of anxiety on handgun shooting behavior of police officers: a pilot study*, 23-2 ANXIETY, STRESS & COPING: AN INTERNATIONAL JOURNAL, Feb. 2010, available at <https://www.tandfonline.com/doi/full/10.1080/10615800902977494?scroll=top&needAccess=true> (observing that police firearm discharge data confirms that in high stress situations the vast majority of shots miss the intended target); BERNARD D. ROSTKER, ET AL., EVALUATION OF THE NEW YORK CITY POLICE DEPARTMENT FIREARM TRAINING AND FIREARM-DISCHARGE REVIEW PROCESS (2008) (comprehensive study of the New York City Police Department found that in a gunfight, NYPD officers hit their intended target only 18% of the time). Such evidence suggests that training teachers to assume this armed role in a crisis environment is an enormous undertaking.

A tremendous amount of training is required to accurately use a firearm in the first instance. For example, before Marine Corps recruits set foot on a rifle range for live-fire exercises, proper weapons-handling skills and the fundamentals of marksmanship are drilled into them for 13 weeks—this training represents a minimum level of proficiency needed to simply be functional in a combat environment. If a teacher finds herself in a high-intensity conflict, she will naturally become reactionary. See James Clark, *This Is How Marines Learn To Shoot*, TASK &

PURPOSE (Apr. 25, 2016), <https://taskandpurpose.com/joining-the-military/marines-learn-shoot>.

This is where an individual no longer thinks as she normally would; instead she reacts, relying on her instincts and training. In order for snap decision-making to occur, a teacher must have a solid training foundation to draw upon.

While basic knowledge of firearm safety and usage is certainly a necessary, it is far from sufficient. If a teacher is required to use a firearm defensively to address an imminent threat, she will likely have to make the decision in a matter of seconds and do so while charged with high-emotions. During those few seconds, a teacher must scan and assess the situation, identify actual threats, determine the most prudent actions available to her, assess whether she can be efficacious with a firearm, be confident in her own skill with that firearm, then commit to her intended course of action. Each of these constitutes a unique skill, and the majority of which depend on the individual's mental acuteness.

When determining what training is needed, several key considerations must be taken into account: the numerous conflict scenarios that could develop in a school environment; the decision-making involved exists in high-stakes and high stress environment; and the decisions must be made instantaneously, which requires developing instincts and forming proper habits. *See Harris, supra* at 2 (two round-table discussion sessions of law enforcement professionals identified 22 factors that an armed teacher would have to assess quickly and act upon in an active shooter situation, and concluding that policy-makers who support arming teachers make incorrect assumptions about how effective armed teachers would be in an active shooter situation).

A variety of situations could unfold in a school setting which might require a teach to use (or not use) a firearm. Potential scenarios that must be trained for include an active shooter

entering the school, a student brandishing and threatening to use a gun while at schools, a student who may behave threateningly but it is unknown whether he possesses a firearm, or a student who threatens injure himself, among other situations. Common to all these scenarios is the fact that the teacher is not controlling the hostile environment—she is reacting to a situation thrust upon her by virtue of her position. This element of the “unknown” underscores the need for extensive training.

Because the situations that an armed teacher might face vary and are unpredictable, such teachers need to develop “adaptive expertise.” In brief, adaptive expertise refers to the competence to take a skill set (expertise) in one situation and apply it (adapt it) to a new situation that is not necessarily similar. Teachers vary in adaptive expertise, although evidence shows that the skill can be enhanced over time through professional education. JOHN BRANSFORD, *HOW PEOPLE LEARN: BRAIN, MIND, EXPERIENCE, AND SCHOOL: EXPANDED EDITION*, 45–48 (John D. Bransford, Ann Brown, & Rodney R. Cocking eds. 2000).

Critical to the training process—before a teacher is forced to actually use a firearm—is how to initially manage a confrontive situation. The likelihood of a violent incident in a classroom can be remarkably reduced when teachers actively manage their classrooms and interact with students regularly, and schools as a whole can come together to create an inclusive, trust-based climate. *See Schoolwide Restorative Practices, Portland Public Schools (2020)*, <https://www.pps.net/Page/13619>. “Whenever teachers are unprepared to manage potential classroom violence effectively, not only does the quality of student achievement deteriorate, but the occurrence of violence against teachers in schools can also lead to a multiplicity of harmful emotional and physical effects.” *See Espelage, supra* at 14, at 77. One such model, for example, successfully employed by the Portland, Oregon Public Schools involves an extensive on-going

training program (24 to 36 hours of professional development training) focused on de-escalating potentially violent and disruptive classroom situations and building positive classroom social relationships. *See* Schoolwide Restorative Practices, Portland Public Schools (2020), <https://www.pps.net/Page/13619>.

V. Effective Training Enables Teachers To Understand The Lens Through Which They View A “Threat.”

From the outset, there must be a conceptual shift regarding teachers’ views on the nature of a threat and how to respond accordingly. Teachers as a whole significantly perceive threats of violence as more likely than actual statistical evidence would suggest.⁵ Even teachers who have themselves not experienced violence against themselves nor violence against anyone in any of the schools in which they have worked, perceive the threat of violence as more likely than it actually is. Williams, *supra* at 13, at 52–56. (This is particularly relevant in Madison because there was a school shooting, and there is concern that teachers will be too quick to react with lethal force based on their misperceptions of a threat.) Media representations of violence appears to be the major influence on teacher perceptions of violence in classrooms and schools. *Id.* This misperception is not easily corrected. Merely providing counter evidence is insufficient for conceptual change; rather, through training, teachers would need to change their underlying way

⁵ Mass shootings in schools are rare, comprising less than 1 percent of school gunfire incidents, but they account for a quarter (24 percent) of overall gun deaths and 12 percent of all people shot and wounded in schools. EVERYTOWN FOR GUN SAFETY, KEEPING OUR SCHOOLS SAFE 9 (February 2020). This aligns with research from other organizations that have developed comparable databases of incidents in schools. The Center for Homeland Defense and Security (CHDS) at the Naval Postgraduate School, for example, maintains a public database of gun violence incidents in K-12 schools dating back to 1970. According to the CHDS database, 10 mass shootings that resulted in the deaths of four or more people not including the shooter occurred on school grounds. The CHDS database also includes more than 1,500 other incidents of school gun violence that occurred over the same time period. Center for Homeland Defense and Security, K-12 SCHOOL SHOOTING DATABASE, <https://www.chds.us/ssdb/> (last visited Oct. 1, 2020).

of thinking about violence in schools. J.E. LANIER & J.W. LITTLE, RESEARCH ON TEACHER EDUCATION 527–569 (M.C. Wittrock ed., 3d ed. 1986).

In addition to tackling the concept of what constitutes a threat, training must also address teachers' varying views as to whom the threat is directed at: themselves or the students. Research indicates that teachers differ with respect to their perceptions of threats of violence against themselves and their students. Pre-service and new teachers primarily perceive threats of violence against themselves while more experienced teachers primarily perceive threats of violence against their students. Williams, *supra* at 13, at 56–57. The implication of this finding is important because, depending on the viewpoint, a teacher may misperceive a threat altogether.

Teachers' past experiences undoubtedly vary, some of which may include enduring violence. For those who have experienced violence, they may suffer from deleterious mental states and be more inclined to use a firearm (i.e., trigger happy) and less likely to accurately assess the threat of violence in a given situation. See Espelage, *supra* at 14, at 76–77. In a study of 2500 teachers who experienced violence, researchers found that teachers' reactions (post-violent event) had a lot to do with whether they (a) attributed the incident to the prior violent experience (i.e., whether or not they attribute the incident to something personal (e.g., "I'm always the victim") or (b) they attributed the incident to a behavior (e.g., "I put myself into a dangerous situation that I could have avoided"). See Eric M. Anderman et al., *Teachers' reactions to experiences of violence: An attributional analysis*, 21-3 SOCIAL PSYCHOLOGY OF EDUCATION, March 2018, at 621, 624–25. The attribution that the teacher made predicted their emotional response, which in turn predicted how they reacted to the event. *Id.* Such research demonstrates that, when teachers make decisions about how to react *after* a violent incident occurs, there are both cognitive and emotional components that affect their reactions. This

suggests that effective professional development needs to address how teachers make attributions and how they control their emotions when they are confronted with violence so that they ultimately make the right decision.

Effective training would also address teachers' implicit biases related toward race, gender, class, and language as they all frame perceptions on what constitutes a threat and, thus, how to react accordingly. Leading researchers recommend that, when developing strategies to violence prevention and intervention, “[t]eachers need to study the history of U.S. educational policy; understand the funding of public education in the United States; become consumers of the research on racism, hate, and bias within schools and communities; and be able to identify how their own race, sexual orientation, gender, ethnicity, and class/socioeconomic status influence their perceptions and behaviors in the classroom.” See Espelage, *supra* at 14, at 82.

Demographic data suggests that the dichotomy between educational staff and students may prove ripe for biases to manifest and play out at the worst time—in a highly-charged, violent environment. The teacher population in the United States is overwhelmingly white, middle-class, and monolingual English, and mostly female whereas increasingly the student population especially in public schools is increasingly non-white, non-middle-class, and linguistically diverse.⁶ U.S DEP’T OF EDUC., INST. OF EDUC. SCIENCE, NAT’L CTR. FOR EDUC. STATISTICS, RACIAL/ETHNIC ENROLLMENT IN PUB. SCHS., https://nces.ed.gov/programs/coe/indicator_cge.asp (last updated May 2020). Research has shown that race, gender, class, and language biases are often factors in teachers misperceiving the actual threat of physical violence, and thus raise the possibility of teacher misuse of firearms. S. A. Jackson, *A study of*

⁶ Implicit bias is not limited to teachers who are white, female, middle-class, and monolingual English. Indeed all teachers are subject to implicit bias even teachers who share the same race, class, gender, and language as their students.

teachers' perceptions of youth problems, 5-3 JOURNAL OF YOUTH STUDIES, (2002), at 313, 320–21. Implicit bias can be addressed through teacher training; however, such teacher training requires extensive time and needs to be recurrent. Cheryl Staats, *Understanding Implicit Bias: What Educators Should Know*, 39-4 AMERICAN EDUCATOR, 2016, available at <https://www.aft.org/ae/winter2015-2016/staats>.

VI. Proper Training Entails Addressing How Firearms In The Classroom Affect The Learning Environment.

Research has shown that learning in classrooms requires students to feel safe, trusted, and respected. Johanna Lacoë, INST. FOR EDUC. AND SOC. POLICY, *Too Scared to Learn? The Academic Consequences of Feeling Unsafe at School* (Working Paper No. 02-13). Placing a firearm in the classroom inherently changes the learning environment puts that safety net at risk. See Diane E. Levin, *Building a Peaceable Classroom: Helping Young Children Feel Safe in Violent Times*, 70-5 CHILDHOOD EDUCATION, 1994, 267–270. The presence of a firearm in the classroom likely changes how authority is conceptualized by students and the teacher and this impacts classroom management and the learning environment. See Randolph R. Bachman & B. L. Brown, *Predicting Perceptions of Fear at School and Going to and From School for African American and White Students: The Effects of School Security Measures*, 43-2 YOUTH & SOCIETY, 2011, 705-726; James Garbarino, Catherine P. Bradshaw, & Joseph A. Vorrasi, *Mitigating the effects of gun violence on children and youth*, 12-2 FUTURE CHILD, 2002, 73–85. Research has also suggested that teacher authority based primarily on “power” (such as the “power” of carrying a firearm) is a model of authority and power that may be taken up by students and thus may undermine the kind of classroom environment research shows is most productive for learning and reproduce the use of firearms by students as a means of “personal safety” and

resolving interpersonal conflict.⁷ See Linda M. Woolf, *Arming Teachers: Good or Bad Idea?*, PSYCHOLOGY TODAY, (Mar. 4, 2018), <https://www.psychologytoday.com/us/blog/the-fight-against-hate/201803/arming-teachers-good-or-bad-idea>.

Classroom management and learning environment strategies will need to adapt to the presence of a firearm in the classroom. In a school which permits teachers to carry firearms in the classroom, teachers must individually and collectively address the effects that student knowledge of teachers carrying firearms in the classroom has on the learning environment. Teachers will need to establish a caring classroom environment, one which is based on classroom management skills and “community-building,” not based on intimidation or a show of force. See Levin, *supra* at 24, at 267. Thus, appropriate training should include providing techniques for teachers to create an atmosphere supportive of learning and free expression and that reduces student predilections to bring firearms to school for purposes of “safety” and “authority.”

Further, research also shows that some teachers will feel heightened levels of distress in a school where some teachers are authorized to bring a firearm into the school. See Caleb Wong, *Faculty members cite campus carry as reason to leave University*, THE DAILY TEXAN (Mar. 4, 2016), <http://www.dailytexanonline.com/2016/03/04/faculty-members-cite-campus-carry-as-reason-to-leave-university> (documenting that authorization of even some teachers to carry firearms into a school affects other teachers in the school by heightening their sense of threat within the school). Thus, there will be a need for in-service professional development to address

⁷ Inherent to the nature of child maturation, students cannot be expected to rationally evaluate risk within a social situation such as a classroom. This includes misassessments of what a teacher is going to do with a firearm and why a teacher has a firearm in a classroom. This misattribution is likely even in the face of teacher explanations.

the tensions that such a policy may create among the teachers and the subsequent change in school climate.

CONCLUSION

As teacher educators and as educational researchers who have studied classroom education, teacher behavior, teacher change, and professional education, if a school districts decides to allow its teachers to go armed while on duty, the Professors conclude the following:

1. Teachers who wish to carry a firearm on school grounds must adhere to rigorous training protocols, similar to training standards that currently exist for peace officers, teacher accreditation, and for other professionals in Ohio;
2. Enhanced and continuous screening measures must be emplaced;
3. Training must instill a host of skillsets beyond physically using a firearm, and training must prepare teachers to encounter and adapt to a variety of hostile situations—all of which must be sustained over time to keep teachers' skills sharp;
4. Training must account for variations in teachers' knowledge, attitudes, experiences, abilities, and mental health; and
5. Teachers must be trained on how to address the impact of bringing a firearm into the classroom on the learning atmosphere.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on October 5, 2020, copy of the foregoing Merit Brief of *Amicus Curiae* Teacher Educators and Educational Researchers in Support of Plaintiffs-Appellees was served by email on the following:

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