



# Lee County Public Schools

**Brian T. Austin, Ph.D.**  
**Division Superintendent**

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[www.lee.k12.va.us](http://www.lee.k12.va.us)

**Board Members**  
Debbie Jessee, Chair  
Mike Kidwell, Vice Chair  
Pam Fannon  
E. Ty Harber  
Rob Hines

## PRESS RELEASE

January 15, 2019

For Immediate Release

Today, the Lee County School Board (LCSB) has filed suit in Lee County Circuit Court to challenge the Commonwealth of Virginia's refusal to issue a registration as a special conservator of the peace (SCOP) to Division Superintendent Brian Austin.

In July of 2018, after careful consideration, the LCSB unanimously decided that commencing a program to enhance student safety that included arming carefully selected employees was appropriate and that such program would include, but not be limited to, the training and registration of selected employees as special conservators of the peace.

The members of the LCSB believe that Dr. Austin fulfilled all legal requirements for SCOP registration. However, Dr. Austin's registration was denied because the Virginia Department of Criminal Justice Services, in reliance on the Attorney General of Virginia, has taken the position that it will not issue an SCOP registration for a school employee who will be armed on school property. It is this rejection that has led the LCSB to file today's lawsuit.

“It is important for the members of our community to know that keeping the children in our schools safe is a top priority for every member of the school board,” said Debbie Jessee, Lee County School Board Chair. “This lawsuit is intended to simply allow our school board to proceed to use another important option in keeping our children safe.”

“This was a unanimous decision to move forward with training and adding security,” said Mike Kidwell, Lee County School Board Vice Chair. “As a school board member, I would vote to hire seven new school resource officers if that was an option in Lee County. In my opinion, adding security against an active shooter in this day and time is a must for all public schools. Several other states have already taken this common sense approach with real results.”

The legal effort on behalf of the LCSB will be led by former Virginia Attorney General, Ken Cuccinelli.

Media inquiries should be directed via email to Dr. Austin ([baustin@lee.k12.va.us](mailto:baustin@lee.k12.va.us)) or Alie Hassan, Mr. Cuccinelli's assistant ([AlieWork123@gmail.com](mailto:AlieWork123@gmail.com)).

Documents related to this filing are attached to this release for ease of reference.

Enclosures

**STURGILL LAW OFFICE, P.C.**

ATTORNEYS AT LAW  
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WISE, VIRGINIA 24293

JEFFERY A. STURGILL  
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TELEPHONE (276) 328-8600  
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January 15, 2019

Rene Lamey, Clerk  
Lee County Circuit Court  
P.O. Box 326  
Jonesville, Virginia 24263

RE: Lee County School Board  
Petition for Appeal of Final Agency Action

Dear Rene:

I am enclosing herewith a Petition for Appeal of Final Agency Action with attached Exhibits which I request you file accordingly. For reference, the August 28, 2018, Attorney General's Opinion is also being submitted. My firm check in the amount of \$80.00 is enclosed for filing fees.

Please return three service copies to my office so that I may obtain service of process.

Thank you for your assistance.

Sincerely,



William J. Sturgill

WJS/bm  
Encl.



# COMMONWEALTH of VIRGINIA

Office of the Attorney General

Mark R. Herring  
Attorney General

202 North Ninth Street  
Richmond, Virginia 23219  
804-786-2071  
Fax 804-786-1991  
Virginia Relay Services  
800-828-1120  
7-1-1

August 28, 2018

Ms. Shannon Dion  
Director, Virginia Department of Criminal Justice Services  
Washington Building  
1100 Bank Street  
Richmond, Virginia 23219

Dear Ms. Dion:

I am responding to your request for an official advisory opinion in accordance with § 2.2-505 of the *Code of Virginia*.

## Issue Presented

You ask whether the Department of Criminal Justice Services (DCJS) may issue a valid temporary registration or valid registration to one or more public school teachers, or other school personnel, seeking to be appointed as an armed special conservator of the peace for school safety purposes.

## Background

You advise that the Lee County School Board recently voted to request that the Lee County Circuit Court appoint public school teachers and other staff members as special conservators of the peace (SCOPs), in an apparent effort to secure authorization for these individuals to carry firearms on school grounds. You have received an application from a Lee County School Board employee seeking temporary registration by DCJS as a prerequisite to appointment by the circuit court as an armed SCOP.

## Applicable Law and Discussion

1. Virginia law requires a temporary registration issued by DCJS prior to a circuit court order appointing a qualified individual as a SCOP and also a valid registration after the circuit court enters an order of appointment.

Section 9.1-150.1 defines a "special conservator of the peace" as "any individual appointed pursuant to § 19.2-13 on or after September 15, 2004."<sup>1</sup> Section 19.2-13 provides

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<sup>1</sup> VA. CODE ANN. § 9.1-150.1 (2012).

DCJS a registration document.<sup>11</sup> “Each registered individual shall comply with all applicable administrative requirements and standards of conduct and shall not engage in any acts prohibited by applicable sections of the Code of Virginia . . . .”<sup>12</sup>

2. DCJS cannot issue a temporary registration letter or valid registration document to a SCOP applicant seeking to possess firearms on school property because SCOPs are not legally authorized to carry firearms on school property.

Section 18.2-308.1(B) of the *Code* generally prohibits individuals from knowingly possessing firearms on school property and makes it a Class 6 felony to violate this statute, as follows:

If any person knowingly possesses any firearm designed or intended to expel a projectile by action of an explosion of a combustible material while such person is upon (i) any public, private or religious elementary, middle or high school, including buildings and grounds; (ii) that portion of any property open to the public and then exclusively used for school-sponsored functions or extracurricular activities while such functions or activities are taking place; or (iii) any school bus owned or operated by any such school, he is guilty of a Class 6 felony.<sup>13</sup>

The statute also provides for a mandatory minimum sentence of five years for knowingly possessing a firearm on school property with an intent or attempt to use the weapon.<sup>14</sup>

There are several exceptions to the general prohibition against carrying a firearm on school grounds, including those in §§ 18.2-308 and 18.2-308.016 incorporated into § 18.2-308.1 by reference,<sup>15</sup> and those set out explicitly in § 18.2-308.1(C).<sup>16</sup> However, no exemptions or exceptions apply to SCOPs. While § 18.2-308(D)(3) permits certain “conservators of the peace” to carry concealed firearms on school property in the discharge of their official duties or while in transit to or from such duties,<sup>17</sup> there is no parallel statutory provision allowing SCOPs to possess firearms on school property.

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<sup>11</sup> See VA. CODE ANN. § 19.2-13(E).

<sup>12</sup> 6 VA. ADMIN. CODE § 20-230-30(F), *see also* 6 VA. ADMIN. CODE § 20-230-140(A)(1).

<sup>13</sup> VA. CODE ANN. § 18.2-308.1(B) (Supp. 2018).

<sup>14</sup> *Id.* at subsection C.

<sup>15</sup> See *id.* (providing that the exemptions in §§ 18.2-308 and -308.016 are incorporated into § 18.2-308.1, *mutatis mutandis*).

<sup>16</sup> Included among the exemptions set out in § 18.2-308.1(C) is the possession of weapons “as a part of the school’s curriculum or activities” or “as a part of any program sponsored or facilitated by either the school or any organization authorized by the school to conduct its programs either on or off the school premises.” Earlier versions of these exemptions have been included in the statute since its original enactment in 1979 and are commonly used to accommodate student educational programs, such as Junior Reserve Officers’ Training Corps (JROTC) (§ 22.1-277.07(D)) and hunter safety education programs (§ 22.1-204.2). The language allowing firearms as part of a curriculum, activity, or program supports the use of firearms for purposes of educating and training students. The language does not expressly or impliedly authorize a program to arm educational and administrative school board employees, such as teachers and administrators, nor has the General Assembly enacted such language when presented with bills that would allow school boards to arm its teachers and other personnel. See *infra*, notes 37-40 and accompanying text.

<sup>17</sup> See VA. CODE ANN. § 18.2-308(D)(3) (Supp. 2018).

under the rule of law.<sup>27</sup> Section 9.1-100(B) provides that “the Director of [DCJS] shall, under the direction and control of the Governor, exercise the powers and perform the duties conferred or imposed upon him by law and perform such other duties required by the Governor or the Criminal Justice Services Board.”<sup>28</sup> Additionally, the Director of DCJS is required to take an oath to uphold the Constitution of the United States and the Constitution of the Commonwealth of Virginia.<sup>29</sup>

The issuance of a temporary registration to a SCOP for possession of a firearm on public school property would not comply with § 18.2-308.1 and exceeds the powers vested in DCJS. Therefore, it is my opinion that DCJS lacks authority to issue a temporary or valid registration to an armed SCOP whose geographical jurisdiction includes public school grounds.

3. Virginia law authorizes school resource officers and certain school security officers to possess firearms on public school grounds as school safety personnel, but such authority is not extended to teachers and administrators.

The General Assembly has established and defined the mechanisms for school districts to employ or otherwise secure the services of properly trained school safety personnel and for certain of these personnel to carry firearms in the execution of their school safety duties. The General Assembly has authorized local law enforcement agencies to hire school resource officers (SROs) to maintain safety on public school property.<sup>30</sup> Section 9.1-101 defines an SRO as “a certified law-enforcement officer hired by the local law-enforcement agency to provide law-enforcement and security services to Virginia public elementary and secondary schools.”<sup>31</sup> As certified law enforcement officers, SROs are authorized by law to possess firearms on school property.<sup>32</sup>

“School security officers” (SSOs) are also statutorily charged with maintaining safety at public schools in Virginia. As defined in § 9.1-101, an SSO is “an individual . . . employed by the local school board for the singular purpose of maintaining order and discipline, preventing crime, investigating violations of school board policies, and detaining students violating the law or school board policies on school property or at school-sponsored events and who is responsible solely for ensuring the safety, security, and welfare of all students, faculty, staff, and visitors in the assigned school.”<sup>33</sup> SSOs differ from SROs in that SROs are law enforcement agency employees assigned by their law enforcement command to local schools, whereas SSOs are school employees under the direction of a school principal or designee.<sup>34</sup>

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<sup>27</sup> Specifically, it is axiomatic that public officials must execute their duties in a manner consistent with law, and may not make decisions in contravention of law. *See, e.g.*, *United States v. Leon*, 468 U.S. 897, 980 (1984) (Stevens, J., concurring in part and dissenting in part); *Weinburger v. Romero-Barcelo*, 456 U.S. 305, 323 (1982) (Stevens, J., dissenting).

<sup>28</sup> VA. CODE ANN. § 9.1-100(B) (2012).

<sup>29</sup> *See* VA. CODE ANN. § 49-1 (2013).

<sup>30</sup> VA. CODE ANN. § 9.1-101 (Supp. 2018).

<sup>31</sup> *Id.*

<sup>32</sup> VA. CODE ANN. § 18.2-308.1(C)(iv).

<sup>33</sup> VA. CODE ANN. § 9.1-101.

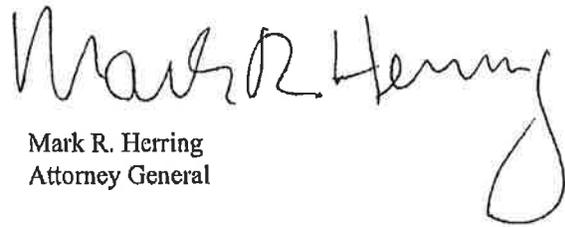
<sup>34</sup> *Id.* Schools may be authorized to employ other school security personnel, some of whom may be active or former law-enforcement officers authorized to carry firearms on school property as part of their duties. *See* VIRGINIA DEPARTMENT OF CRIMINAL JUSTICE SERVICES, VIRGINIA CENTER FOR SCHOOL AND CAMPUS SAFETY, THE 2017 SCHOOL SAFETY AUDIT SURVEY RESULTS (Feb. 2018).

Ms. Shannon Dion  
August 28, 2018  
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Department of Criminal Justice Services cannot lawfully issue a temporary or valid registration for armed SCOPs with jurisdiction over public school grounds.<sup>41</sup>

With kindest regards, I am,

Very truly yours,

A handwritten signature in black ink that reads "Mark R. Herring". The signature is written in a cursive style with a large, looped "y" at the end.

Mark R. Herring  
Attorney General

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<sup>41</sup> See VA. CODE ANN. § 18.2-308.1.

IN THE CIRCUIT COURT OF LEE COUNTY, VIRGINIA

BRIAN T. AUSTIN )  
 In his capacity as an employee of the )  
 Lee County School Board )  
 Plaintiff, )  
 v. )  
 VIRGINIA DEPARTMENT OF CRIMINAL )  
 JUSTICE SERVICES )  
 Defendant. )  
*Serve: Shannon Dion, Director* )  
*Virginia Department of* )  
*Criminal Justice Services* )  
*1100 Bank Street,* )  
*Richmond, VA 23219* )  
*(City of Richmond)* )  
 )  
 BRIAN J. MORAN, SECRETARY OF )  
 PUBLIC SAFETY AND HOMELAND )  
 SECURITY )  
*Serve: Brian J. Moran* )  
*Patrick Henry Building* )  
*1111 East Broad Street* )  
*Richmond, VA 23219* )  
*(City of Richmond)* )

Case No. \_\_\_\_\_

PETITION FOR APPEAL OF FINAL AGENCY ACTION

Plaintiff Brian T. Austin, by counsel, pursuant to Virginia Code § 2.2-4000, et seq., states as follows for his Petition for Appeal of Final Agency Action against Defendant Virginia Department of Criminal Justice Services (“the Department” or “Defendant”) and in the alternative the Virginia Department of Public Safety and Homeland Security (“Public Safety”):

INTRODUCTION

This appeal arises from the January 11, 2019 final decision of the Department to decline to issue a temporary and/or permanent registration to Plaintiff Brian T. Austin (“Austin”) as a special conservator of the peace (“SCOP”) pursuant to Lee County School Board’s (“School Board”) School Security Agent Program (“Program”). Austin asks this court for entry of an order directing the issuance of the aforementioned registration.

## PARTIES, JURISDICTION AND VENUE

1. The School Board is a body politic that operates and manages the Lee County Public Schools (“LCPS”).

2. Austin is a resident of Lee County, Virginia, and is employed as the Superintendent of LCPS. Austin brings this appeal in his capacity as an employee of LCPS.

3. The Department is a Virginia state agency, located in Richmond, Virginia, charged with planning and carrying out programs and initiatives to improve the functioning and effectiveness of the criminal justice system. The Department is an agency within the Virginia Department of Public Safety and Homeland Security.

4. The Virginia Department of Public Safety and Homeland Security, located in Richmond, Virginia, is charged with responsibility for maintaining public safety and participating in homeland security and overseeing the Department.

5. The Court has jurisdiction over this matter pursuant to Virginia Code § 2.2-4000, et seq.

6. Venue in this Court is appropriate pursuant to Virginia Code §§ 8.01-261, 2.2-4003, and 2.2-4026.

## CASE HISTORY

7. LCPS consists of five elementary schools, three middle schools, two high schools, and a career and technical center. Those schools are separated by mountainous terrain and geographical distance.

8. The safety of its students is a primary concern of the School Board.

9. The School Board does not have sufficient funding to provide each LCPS school with a School Resource Officer (“SRO”), as defined by Virginia Code § 9.1-101.

10. The School Board considered instead employing School Security Officers (“SSOs”), as defined by Virginia Code § 9.1-101.

11. In order for an SSO to carry a firearm, the SSO must meet several requirements, including a requirement that “within 10 years immediately prior to being hired by the local school board he was an active law-enforcement officer as defined in § 9.1-101 in the Commonwealth.” Virginia Code § 22.1-280.2:1(i).

12. The School Board determined that hiring SSOs was cost prohibitive. In addition, given the rural and remote nature of Lee County, the School Board was unable to find qualified candidates for SSO positions due to the law enforcement experience requirement set forth above.

13. For these reasons, and out of a desire to protect its students to the fullest extent practicable, on July 12, 2018, the School Board passed a School Security Agent Program (the “Program”), a copy of which is attached hereto at Exhibit A.

14. Pursuant to the Program, selected authorized and trained school board employees, called School Security Agents (“SSAs”), would be permitted to carry concealed firearms on School Board Property or store them securely in approved gun safes in their workspaces on School Board Property.

15. Virginia Code §18.2-308.1 generally prohibits the possession of weapons on school property. There are, however, several exceptions to the general prohibition, including that it shall not apply to “persons who possess such weapon or weapons as a part of any program sponsored or facilitated by either the school or any organization authorized by the school to conduct its programs either on or off the school premises.” Va. Code §18.2-308.1(C)(iii).

16. As part of a school sponsored program as set forth in Virginia Code § 18.2-308.1(C)(iii), the Program would permit LCPS’s SSAs to possess a firearm on School Board Property.

17. As part of the Program, SSAs would be appointed Special Conservators of the Peace (“SCOP”) by the Lee County Circuit Court in accordance with Va. Code §§ 19.2-13 and 19.2-13.1. This necessarily requires the support and approval of the Lee County Sheriff, which is demonstrated by the Sheriff’s submission in accordance with Va. Code § 19.2-13.1. *See* Exhibit B. The foregoing submission was part of Austin’s application to the Department.

18. In order for a Circuit Court to issue an order appointing a SCOP, the person seeking the appointment must possess a valid registration issued by the Department. *See* Va. Code § 19.2-13.

19. The Department may issue a temporary registration while awaiting the results of a state and national fingerprint search. *Id.*

20. Austin was one of several individual School Board employees selected to be an SSA pursuant to the Program. He underwent psychological screening and extensive training, funded by LCPS, in order to prepare him for this responsibility.

21. On August 20, 2018, Austin submitted his application materials for appointment as a SCOP to the Department. A copy of the application is attached hereto at Exhibit C.

22. On, September 12, 2018, the Department denied Austin’s application for a permit. *See* letter attached hereto at Exhibit D.

23. On September 14, 2018, Austin appealed the Department’s denial. *See* Exhibit E.

24. On September 18, 2018, Austin requested a summary case disposition. *See* Exhibit F.

25. On October 12, 2018, the Department approved Austin’s request for a summary case disposition and set a briefing schedule. *See* Exhibit G.

26. On October 15, 2018, Austin submitted his letter-brief to the Department. *See* Exhibit H.

27. On January 11, 2019, the Department sustained its prior denial of Austin’s application. *See Exhibit I.* This was the Department’s final agency action on this matter and it is the agency decision being appealed herein.

28. This appeal of the final agency action was then commenced by this filing.

UNDISPUTED FACTS

29. Austin and the Department agreed, as part of Austin’s appeal below, that the following facts are undisputed (See Exhibits F & G):

- a. The Lee County School Board adopted a policy to permit the development of a program to allow staff members to be armed on School Board property.
- b. The Lee County Sheriff and Brian Austin, Superintendent, Lee County Public Schools, chose to use the Special Conservator of the Peace (SCOP) program as set forth by DCJS.
- c. Brian Austin, in his capacity as a Lee County School Board staff member, completed all of the necessary paperwork, training, and related processes and accordingly applied for issuance of a temporary SCOP registration.
- d. Brian Austin’s application was denied by DCJS by letter dated September 12, 2018.

ERROR ASSIGNED

30. The Department’s error was in denying, rather than granting, Austin’s application for a temporary and/or permanent registration as a SCOP.

REASONS THE DEPARTMENT’S FINAL DECISION IS UNLAWFUL

31. The Department’s denial was based upon an opinion issued by the Attorney General of Virginia, Mark Herring. Specifically, the Department based its denial upon “the official advisory opinion issued on August 28, 2018, [by] the Attorney General of Virginia,

[wherein he] concluded that (i) special conservators of the peace are prohibited by Code of Virginia § 18.2-308.1 from possessing a firearm on school property and (ii) teachers and other school personnel are, therefore, necessarily prohibited from being appointed as armed special conservators of the peace for school safety purposes.” See Exhibits D & I. The foregoing basis for the denial of Austin’s registration is incorrect and/or insufficient as a matter of law.

32. The Virginia Administrative Code specifies the reasons upon which the Department may base the denial of a permit. See 6 VAC 20-230-120. The specified reasons do not include that possession of a weapon under particular circumstances would be a violation of law. *Id.* In fact, the Virginia Code expressly allows possession of a firearm as part of a variety of school programs, and the Program of LCPS meets such criteria.

33. Austin fulfilled all proper requirements of the Department for registration as a SCOP and thus the Department should have issued Austin such registration, and in fact, had no authority to deny Austin’s SCOP registration as the duty to issue Austin’s registration was strictly ministerial once Austin had fulfilled all SCOP requirements.

34. The Department assumed to itself powers it does not possess under law in order to then exercise those powers to unlawfully deny Austin’s application.

#### REQUEST FOR RELIEF

In light of the foregoing, Austin requests the following relief:

35. Set a briefing schedule for this case in light of the fact that there are no material facts in dispute and a decision can be granted based solely on the record from the agency action;

36. Hold that the Program does not violate Virginia Code § 18.2-308 and is a “program” as that term is used in the exemptions under Virginia Code § 18.2-308.1(C)(iii), and that SCOPs are not prohibited from possessing firearms on school property as part of such a program;

37. Order the case to be remanded to the Department for the issuance of Austin's SCOP registration; and

38. Grant any and all other appropriate relief including but not limited to fees and costs.

Respectfully submitted,



Kenneth T. Cuccinelli, II  
VSB# 39,490

13881 Jordan Meadows Lane  
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(804) 286-2550

Counsel for Brian T. Austin in his capacity as an employee of the Lee County School Board

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Co-Counsel for Brian T. Austin in his capacity as an employee of the Lee County School Board

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(276) 328-8600  
(272) 328-3903 (fax)

Co-Counsel for Brian T. Austin in his capacity as an employee of the Lee County School Board

# EXHIBIT A



Book Lee County School Board Policy Manual  
Section K - School-Community Relations  
Title School Security Agent Program  
Number KNAJ-BR  
Status Active  
Adopted July 12, 2018

The Lee County School Board (School Board) authorizes the division superintendent to develop a School Security Agent (SSA) program in partnership with the Lee County Sheriff's Office to allow authorized School Board employees to carry concealed firearms on School Board Property or store them in approved safes in their workspace on School Board Property.

Any School Board employee who is in good standing as evidenced by an annual evaluation may apply for the program by contacting the division superintendent and submitting a written application. Electronic and/or verbal requests for this program will not be accepted and such submissions may be grounds for exemption from the program. Priority consideration for the program shall be given to individuals with prior successful military or law enforcement experience.

After completion of the application and interview with the division superintendent, the employee must complete a psychological test used to determine eligibility for employment as a law enforcement officer. The test will be administered by a third-party, licensed organization. The employee shall complete any and all necessary paperwork to release the results of the psychological test to the division superintendent to determine the employee's eligibility for the program.

The employee will be expected to pay \$100 cash at the time of the interview with the division superintendent and/or members of the Lee County Sheriff's Office. The payment will be receipted and held by the division superintendent on behalf of the School Board. If the employee passes the test, then the deposit will be refunded in full. If the employee does not pass the test, then the deposit will be used to offset the cost of the test.

The division superintendent will not grant approval of a staff member's request who has any history that would indicate any type of mental or emotional instability.

Upon successful completion of the application, interview, the psychological test, a National Instant Criminal Background Check System (NICS) screening, and initial approval by the division superintendent, related training with the Lee County Sheriff's Office will be scheduled. Prior to the training, all applicants must sign a release that they have read and understand this School Board Policy. Furthermore, each applicant must certify the mutual understanding that such training and the request to possess a concealed firearm on School Board property is voluntary and is not required as a condition of employment with the School Board.

The division superintendent and Lee County Sheriff (Sheriff) will collaborate to develop procedures related to the initial training and recertification for this program, which shall include a review of laws regarding the appropriate use of force for the defense of self and others, fundamentals of marksmanship, and the appropriate handling and storage of the approved concealed firearms.

No such authorized weapon shall be drawn on school premises unless there is a situation that necessitates the weapon be drawn or used to protect students and staff.

No School Board employee shall be permitted to carry concealed firearms on School Board property or store them in approved safes on School Board Property until all of the requirements of this School Board Policy and related procedures are completed. To receive and subsequently maintain authorization, all approved personnel shall qualify to the standard required by the Sheriff for each type of weapon authorized.

Employees who complete the procedures related to this School Board Policy shall be subject to an annual criminal history background check at the discretion of the division superintendent. The division superintendent may at any time remove or suspend the authority granted to any employee under this School Board Policy. After completion of this program, the employee shall be under the direct supervision and control of division and school administrations.

The division superintendent, division superintendent's designees, and principal of each school shall be the only School Board employees who will be made aware of and have access to the list of employees who are certified through this School Board Policy and related procedures. Each principal will be provided a list of individuals who are participating in this program at that school. This list will not be subject to any disclosure due to related school safety concerns. Any disclosure by School Board employees may result in disciplinary consequences, up to and including, disqualification from this program or termination.

# EXHIBIT B

GARY B. PARSONS  
Sheriff



LEE COUNTY SHERIFF'S DEPARTMENT

P. O. Box 177  
Jonesville, Virginia 24268  
276-346-7753

To The Circuit Court of Lee County Virginia:

I write this letter asking you grant Special Conservator of the Peace status to those employees of the Lee County School Division who are being submitted by the Division. The need for the Special Conservator of the Peace designation is to increase security in our county schools. I have been in close consultation with the School Superintendent and am confident the proper training and Department of Criminal Justice requirements are being met. All of those applying will have concealed carry permits and have gone through psychological testing as well as an extensive back ground check. Those applying will have no arrest powers and will have security authority on the property of the Lee County Virginia School Division only.

Respectfully,

A handwritten signature in black ink, appearing to read "G. B. Parsons". The signature is stylized and written in a cursive-like font.

Gary B. Parsons

# EXHIBIT C



# Lee County Public Schools

**Brian T. Austin, Ph.D.**  
Division Superintendent

**Board Members**  
Mike Kidwell, Chair  
Debbie Jessee, Vice Chair  
Pam Fannon  
E. Ty Harber  
Rob Hines

155 Vo Tech Drive  
Jonesville, Virginia 24263  
Phone: (276) 346-2107  
Fax: (276) 346-0307  
[www.lee.k12.va.us](http://www.lee.k12.va.us)

August 20, 2018

Department of Criminal Justice Services  
P.O. Box 1300  
Richmond, Virginia 23218

To Whom It May Concern:

Enclosed is my application and supporting documentation for an appointment as a Special Conservator of the Peace (SCOP) per the *Code of Virginia* § 19.2-13.

Consistent with the *Code of Virginia* § 19.2-13.1 and because the entity for which I would be appointed to serve is a school board in the Commonwealth of Virginia, a letter from Lee County Sheriff Gary Parsons is enclosed to address "the need for the appointment and recommending any limitations."

Furthermore, we are requesting that all documents and related processes and reports, whether part of the application or subsequent appointment, be exempted from the Freedom of Information Act (FOIA). This request is being made to ensure the safety of any individual who participates in the program and for the overall safety of each of our schools. This request is based on the exemptions cited in the *Code of Virginia* § 2.2-3705.2(4) and § 2.2-3705.2(A)(19).

§ 2.2-3705.2. Exclusions to application of chapter, records relating to public safety.

4. Information concerning security plans...

§ 2.2-3711. Closed meetings authorized for certain limited purposes.

19. Discussion of plans to protect public safety as it relates to... discussion of information subject to the exclusion in subdivision 2 or 14 of § 2.2-3705.2, where discussion in an open meeting would jeopardize the safety of any person or the security of any facility... or discussion of reports or plans related to the security of any governmental facility, building or structure, or the safety of persons using such facility, building or structure.

While the last section applies exclusively to a closed meeting, the language related to the "safety of any person or the security of any facility" may be interpreted to expand upon the "security plans" mentioned in the first section.

Lastly, if a redaction or exemption is not possible, then we are requesting that individuals be listed as "Jane Doe" or "John Doe" on any required disclosure. We have a draft court order enclosed that we may pursue to ensure the safety of all involved parties.

Please feel free to contact if you have any questions or concerns.

Respectfully,

Brian T. Austin, Ph.D.  
Division Superintendent

Enclosures

# Special Conservator of the Peace – REGISTRATION APPLICATION – FEE \$60.00

**Type of Application (Select One)**

<input checked="" type="checkbox"/> Initial Application	<input type="checkbox"/> Renewal Application
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**Employer Information:**

SHERIFF OF:

CHIEF OF POLICE OF:

REPRESENTATIVE OF: *(Name and Address of Corporation Authorized to do Business in Commonwealth)*  
**Lee County Public Schools, 155 Vo Tech Drive, Jonesville, Virginia 24263**

REPRESENTATIVE OF: *(Name and Address of Museum Owned and Managed by Commonwealth)*

OWNER, PROPRIETOR OR AUTHORIZED CUSTODIAN OF: *(Name and Address of Owner, Proprietor or Authorized Custodian of Any Place Within the Commonwealth)*

**Applicant Information**

SSN or DC ID No.:	Last Name: Austin	First Name: Brian	MI: T
Mailing Address (Street/Apt.#):		City, State, Zip:	
Email Address: <b>brian.austin@lee.k12.va.us</b>			
Home Phone: -----	Business Phone: <b>(276 )346-2107</b>	Fax: <b>(276 )346-0307</b>	

**Registration Category Requested (Check all that apply)**

<input type="checkbox"/> Unarmed Special Conservator of the Peace	<input checked="" type="checkbox"/> Armed Special Conservator of the Peace <input checked="" type="checkbox"/> Handgun <input type="checkbox"/> Shotgun
---	--

**Eligibility Determination**

If you answer YES to any question, attach a brief explanation of your answer along with any supporting documentation. If you have a conviction and your firearms eligibility has been restored, provide supporting documentation. For additional information pertaining to firearms eligibility please review *Virginia Code §18.2-309 et seq.* and *18 U.S.C. § 922 of the Federal Gun Control Act.*

1. Have you ever been convicted of a Felony offense? (Include Felony convictions of driving under the influence and/or any offense for which you were convicted as a juvenile, which would be a felony if committed by an adult.)	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
2. Have you ever been convicted of an offense as a Juvenile that would prohibit you from possessing or carrying a firearm?	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
3. Have you been convicted of a Misdemeanor offense within the five-year period immediately preceding this application pertaining to possession of a controlled substance or marijuana?	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
4. Have you ever been convicted in any court of a Misdemeanor crime of domestic violence or assault and battery of a family member?	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO

5. Have you ever been adjudicated mentally defective (which includes a determination by a court, board, commission, or other lawful authority that you are a danger to yourself or to others or are incompetent to manage your own affairs) OR have you ever been committed to a mental institution?	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
6. Have you ever been acquitted by reason of insanity, adjudicated legally incompetent, mentally incapacitated or adjudicated an incapacitated person by a court of Virginia or any other court?	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
7. Have you ever been involuntarily admitted to a facility or ordered to mandatory outpatient treatment by any court, board, commission, or other lawful authority?	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
8. Are you the subject of, or named as respondent in a Restraining Order or a Protective Order?	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
9. Are you an alien NOT lawfully admitted for permanent residence in the United States?	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
10. Have you ever been discharged from the Armed Forces of the United States under "Dishonorable Conditions"?	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
11. Are you a fugitive from justice?	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO

**Affirmation**

I, the undersigned, certify that all information contained on this application is true and correct to the best of my knowledge and I have not omitted any pertinent information. I understand that any misrepresentation, falsification or omission of pertinent information may be cause for denial of my application or criminal prosecution, including but not limited to feloniously forging and uttering a public document in violation of Va. Code § 18.2-168. I understand that I am responsible for maintaining full compliance with the Code of Virginia and Regulations relating to Special Conservators of the Peace.

Signature Required: \_\_\_\_\_

*B. T. Ask*

Date: 07/29/18

mm/dd/yy

**All fees are non-refundable. Forms received without payment will be returned.**

Submit a check or money order payable to the TREASURER OF VIRGINIA, or pay by credit card using the Credit Card Authorization form available on our website. This form must be included with your form package when paying by credit card.

**We do not accept cash.**



**COMMONWEALTH OF VIRGINIA**  
**Department of Criminal Justice Services**  
 PO Box 1300 • Richmond, VA 23218  
 Phone: (804) 786-4700 • Fax: (804) 786-6344  
[www.dcjs.virginia.gov](http://www.dcjs.virginia.gov)

Want to EXPEDITE your application?  
 — SUBMIT ONLINE —  
 Online Regulatory Licensing System  
[www.dcjs.virginia.gov/online](http://www.dcjs.virginia.gov/online)

**CRIMINAL HISTORY PROCESSING FORM – FEE \$25.00**

**IMPORTANT INFORMATION**

To ensure a timely processing of a criminal history records check, the following must be done:

- Submit your registration, certification or license application with this form.
- Submit legal presence documentation.
- You will need to schedule an appointment to be fingerprinted for your Criminal History records check. Please visit <https://fieldprintvirginia.com> or call 877-614-4364. You will need to use the corresponding Fieldprint Code listed below. The Virginia Department of Criminal Justice Services (DCJS) will automatically be notified of updates related to the process.
- The Criminal History records check is only valid for 120 days from date of submittal. If applying for a credential under the regulation of DCJS, please ensure all applicable application forms are submitted within 120 days.

**Applicant Information**

SSN or DCJS ID:	Last Name: Austin	First Name: Brian	MI: T
Mailing Address (Street/Apt.#):		City, State, Zip:	
Physical Address (if different than mailing address):		City, State, Zip:	
Email Address: <u>brian.austin@lee.k12.va.us</u>			
Home Phone:	Business Phone: (276 )346-2107	Fax: (276 )346-0307	
Employer Business Name: <u>Lee County Public Schools</u>			DCJS ID: 11-

**Reason for Fingerprinting**

**Private Security Services**  
*Virginia Code §§9.1-138-9.1-150*  
 Field Print Code: FPVADOCJPSS

- Business License
- Training School Certification
- Individual Registration
- Compliance Agent Certification
- Instructor Certification
- Electronic Security Personnel
- Detector Canine Handler Examiner Certification

**Special Conservator of the Peace (SCOP)**  
*Virginia Code §§9.1-150.1-9.1-150.4*  
 Field Print Code: FPVADOCJSCOP

- SCOP Registration

**Bail Bondsmen**  
*Virginia Code §9.1-185 (et seq.)*  
 Field Print Code: FPVADOCJBB

- Property or Surety License

**Bail Enforcement Agent**  
*Virginia Code §9.1-186 (et seq.)*  
 Field Print Code: FPVADOCJBEA

- Bail Enforcement Agent License

**Eligibility**

1. Are you a United States citizen or legal resident alien?  Yes  No  
 If no, you are ineligible for registration, certification and licensure.

**Criminal History Records Check**

1. Are you currently under a Protective Order(s)?  Yes  No

If yes, provide a copy of each Protective Order(s) and the Release Date: \_\_\_\_\_.

If more than one, provide information on a separate page for each additional Protective Order.

Locality Information for Protective Order: State \_\_\_\_\_ County/City/Town of \_\_\_\_\_

2. Have you ever been convicted or found guilty of a felony or misdemeanor (not to include minor traffic violations) in Virginia or any other jurisdiction to include military court martial?

Yes\*  No

\*If Yes, please complete the Criminal History Supplemental Information Form found on our website.

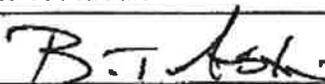
**\*\*\* Failure to provide supplemental documentation will result in a delay in the processing of your form\*\*\***

**Affirmation**

I, the undersigned, certify that all information contained on the form is true and correct to the best of my knowledge and I have not omitted any pertinent information. I understand that any misrepresentation, falsification or omission of the pertinent information may be cause for denial and may result in criminal charges.

I hereby give consent and authorize the Virginia State Police and the Federal Bureau of Investigations to process my fingerprints for a criminal history records check and report the results of such record to the Virginia Department of Criminal Justice Services (DCJS). I authorize the Virginia State Police to archive my fingerprints for the purpose of reporting any future criminal history information. I fully understand that if I am arrested this information may be reported to the DCJS.

Print Name: Brian T. Austin

Signature: 

Date: 07/29/18  
mm/dd/yy

**All fees are non-refundable. Forms received without payment will be returned.**

Submit a check or money order payable to the TREASURER OF VIRGINIA, or pay by credit card using the Credit Card form available on our website. This form must be included with your form package when paying by credit card.

**We do not accept cash.**

One page intentionally left blank.

Birth Certificate of Brian Austin withheld to protect personal identifying information.

One page intentionally left blank.

Passport of Brian Austin withheld to protect personal identifying information.

# CERTIFICATE OF COVERAGE

Issue Date:

7/26/2018

**THIS CERTIFICATE OF COVERAGE IS ISSUED AS A MATTER OF INFORMATION ONLY. IT CONFERS NO RIGHTS UPON THE THIRD PARTY REQUESTING THE CERTIFICATE BEYOND WHAT THE REFERENCED COVERAGE CONTRACT EXPRESSLY PROVIDES. THIS CERTIFICATE OF COVERAGE DOES NOT EXTEND, AMEND, OR ALTER THE COVERAGE, TERMS, EXCLUSIONS, OR CONDITIONS AFFORDED BY THE COVERAGE CONTRACT REFERENCED IN THIS CERTIFICATE OF COVERAGE**

<b>PRODUCER:</b>	Risk Management Programs, Inc. 1315 Franklin Road SW Roanoke, VA 24016		<b>CONTACT NAME:</b>	Stephanie Brown
			<b>PHONE:</b>	(844) 986-2788
			<b>EMAIL:</b>	sbrown@riskprograms.com
<b>MEMBER:</b>	Lee County Public Schools 185 Yo Tech Drive Jonesville, VA 24203	<b>COMPANIES AFFORDING COVERAGE</b>		
		<b>COMPANY A:</b>	Virginia Association of Counties Group Self-Insurance Risk Pool	

## COVERAGES

This is to certify that the coverages listed below have been issued to the member named above for the contract period indicated. Notwithstanding any requirement, term or condition of any contract or other document with respect to which this certificate may be issued or may pertain, the coverage afforded by the coverages described herein is subject to all the terms, exclusions and conditions of such coverage contracts. Limits shown may have been reduced by paid claims.

CO LTR	TYPE OF COVERAGE	CONTRACT NUMBER	CONTRACT EFFECTIVE DATE	CONTRACT EXPIRATION DATE	LIMITS / DEDUCTIBLES														
A	<b>GENERAL LIABILITY</b> <input checked="" type="checkbox"/> Occurrence	VA-LE-052B-19	07/01/2018	07/01/2019	<table style="width: 100%; border-collapse: collapse;"> <tr><td>Each Occurrence</td><td style="text-align: right;">Lim. \$2,000,000</td></tr> <tr><td>Fire Damage (Any one fire)</td><td style="text-align: right;">Lim. \$500,000</td></tr> <tr><td>General Aggregate</td><td style="text-align: right;">Lim. NONE</td></tr> <tr><td>Medical Payments (Any one person)</td><td style="text-align: right;">Lim. \$5,000</td></tr> <tr><td>Personal &amp; ADV Injury</td><td style="text-align: right;">Lim. \$2,000,000</td></tr> <tr><td>Products - Comp/OP</td><td style="text-align: right;">Lim. \$2,000,000</td></tr> <tr><td>General Liability</td><td style="text-align: right;">Ded. \$0</td></tr> </table>	Each Occurrence	Lim. \$2,000,000	Fire Damage (Any one fire)	Lim. \$500,000	General Aggregate	Lim. NONE	Medical Payments (Any one person)	Lim. \$5,000	Personal & ADV Injury	Lim. \$2,000,000	Products - Comp/OP	Lim. \$2,000,000	General Liability	Ded. \$0
Each Occurrence	Lim. \$2,000,000																		
Fire Damage (Any one fire)	Lim. \$500,000																		
General Aggregate	Lim. NONE																		
Medical Payments (Any one person)	Lim. \$5,000																		
Personal & ADV Injury	Lim. \$2,000,000																		
Products - Comp/OP	Lim. \$2,000,000																		
General Liability	Ded. \$0																		
A	<b>AUTOMOBILE LIABILITY</b> <input checked="" type="checkbox"/> All Owned Autos <input type="checkbox"/> Hired Autos <input type="checkbox"/> Scheduled Autos <input type="checkbox"/> Non-Owned Autos	VA-LE-082B-19	07/01/2018	07/01/2019	<table style="width: 100%; border-collapse: collapse;"> <tr><td>Combined Single Limit</td><td style="text-align: right;">Lim. \$2,000,000</td></tr> <tr><td>Auto Liability</td><td style="text-align: right;">Ded. \$0</td></tr> </table>	Combined Single Limit	Lim. \$2,000,000	Auto Liability	Ded. \$0										
Combined Single Limit	Lim. \$2,000,000																		
Auto Liability	Ded. \$0																		
A	<b>CRIME</b>	VA-LE-052B-19	07/01/2018	07/01/2019	<table style="width: 100%; border-collapse: collapse;"> <tr><td>Blanket</td><td style="text-align: right;">Lim. \$250,000</td></tr> <tr><td>Per Occurrence</td><td style="text-align: right;">Ded. \$250</td></tr> </table>	Blanket	Lim. \$250,000	Per Occurrence	Ded. \$250										
Blanket	Lim. \$250,000																		
Per Occurrence	Ded. \$250																		
A	<b>EXCESS LIABILITY</b> <input checked="" type="checkbox"/> Excess General Liability <input type="checkbox"/> Excess Automobile Liability <input type="checkbox"/> Excess Law Enforcement Liability <input type="checkbox"/> Other than Umbrella Form	VA-LE-052B-19	07/01/2018	07/01/2019	<table style="width: 100%; border-collapse: collapse;"> <tr><td>Aggregate</td><td style="text-align: right;">Lim. NONE</td></tr> <tr><td>Each Occurrence</td><td style="text-align: right;">Lim. \$3,000,000</td></tr> </table>	Aggregate	Lim. NONE	Each Occurrence	Lim. \$3,000,000										
Aggregate	Lim. NONE																		
Each Occurrence	Lim. \$3,000,000																		
A	<b>INLAND MARINE</b>	VA-LE-052B-19	07/01/2018	07/01/2019	Blanket per Schedule on File.														
A	<b>PROPERTY</b>	VA-LE-052B-19	07/01/2018	07/01/2019	<table style="width: 100%; border-collapse: collapse;"> <tr><td>Blanket per Schedule on File.</td><td></td></tr> <tr><td>Building &amp; Contents</td><td style="text-align: right;">Ded. \$1,000</td></tr> </table>	Blanket per Schedule on File.		Building & Contents	Ded. \$1,000										
Blanket per Schedule on File.																			
Building & Contents	Ded. \$1,000																		
A	<b>WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY</b>	VA-LE-082B-19	07/01/2018	07/01/2019	<table style="width: 100%; border-collapse: collapse;"> <tr><td>EL Disease - Each Emp.</td><td style="text-align: right;">Lim. \$1,000,000</td></tr> <tr><td>EL Disease - Policy Limit</td><td style="text-align: right;">Lim. \$1,000,000</td></tr> <tr><td>EL Each Accident</td><td style="text-align: right;">Lim. \$1,000,000</td></tr> <tr><td><input checked="" type="checkbox"/> WC Statutory Limits</td><td></td></tr> <tr><td>WC Deductible</td><td style="text-align: right;">Ded. \$0</td></tr> </table>	EL Disease - Each Emp.	Lim. \$1,000,000	EL Disease - Policy Limit	Lim. \$1,000,000	EL Each Accident	Lim. \$1,000,000	<input checked="" type="checkbox"/> WC Statutory Limits		WC Deductible	Ded. \$0				
EL Disease - Each Emp.	Lim. \$1,000,000																		
EL Disease - Policy Limit	Lim. \$1,000,000																		
EL Each Accident	Lim. \$1,000,000																		
<input checked="" type="checkbox"/> WC Statutory Limits																			
WC Deductible	Ded. \$0																		
A	<b>EDUCATORS LEGAL LIABILITY</b> <input checked="" type="checkbox"/> Claims Made	VA-LE-052B-19	07/01/2018	07/01/2019	<table style="width: 100%; border-collapse: collapse;"> <tr><td>Aggregate</td><td style="text-align: right;">Lim. \$5,000,000</td></tr> <tr><td>Each Wrongful Act</td><td style="text-align: right;">Lim. \$5,000,000</td></tr> <tr><td>Per Occurrence</td><td style="text-align: right;">Ded. \$1,000</td></tr> </table>	Aggregate	Lim. \$5,000,000	Each Wrongful Act	Lim. \$5,000,000	Per Occurrence	Ded. \$1,000								
Aggregate	Lim. \$5,000,000																		
Each Wrongful Act	Lim. \$5,000,000																		
Per Occurrence	Ded. \$1,000																		

**Description of Operations / Locations / Vehicles / Special Items / Notes**

RE: Special Conservator of the Peace Applicants Included under Law Enforcement Liability - \$1,000,000 Per Occurrence/Annual Aggregate.

**CERTIFICATE HOLDER**

Department of Criminal Justice  
PO Box 1300  
Richmond, VA 23218

**Authorized Representative**

Stephanie Y Brown

# Result Report

Final Verification:

Negative



**FSSolutions**

Quality Service Since 1969

---

## DONOR INFORMATION

Donor ID: XXXXX7774  
Donor Name: AUSTIN, BRIAN  
Test Type: Pre-Employment  
Employer: Lee County Schools

## SPECIMEN INFORMATION

Accession ID: 0243665796  
Specimen ID: 0243665796  
Laboratory: LabCorp  
Test Panel: Urine 5 Drugs & MDMA & ALC  
Collected Date: 07/13/2018 10:00 AM  
Account Type: NON

## MRO INFORMATION

Rec'd MRO CCF: 07/22/2018 12:21 PM  
MRO Verification/Release: 07/22/2018 12:21 PM  
MRO Signature:   
Client Access Date: 08/21/2018 12:35 PM  
Released By:

---

GARY B. PARSONS  
Sheriff



LEE COUNTY SHERIFF'S DEPARTMENT

P. O. Box 177  
Jonesville, Virginia 24263  
276-346-7753

August 20, 2018

To whom it may concern:

This letter is confirmation that my office has run a criminal history on Brian Austin ssn#  
\_\_\_\_\_ D.O.B. \_\_\_\_\_ and has found no criminal record on this individual.

Respectfully,

A handwritten signature in black ink, appearing to be "G. B. Parsons", followed by a long horizontal line extending to the right.

Sheriff Gary B. Parsons



**TRAINING COMPLETION RECORD**

**IMPORTANT INFORMATION**

- > This document is for the student's personal record – Do not submit to DCJS.
- > The Private Security Services Training School will report completion of training to DCJS.
- > Only one course of training may be recorded on an individual training completion record form.

Training School DCJS ID Number: 88-10089	Private Security Services Training School: SafeSide Range & Training	Phone: (540) 682 8881
Student Name: <u>Brian T. Austin</u>		DCJS ID Number: _____
Student Completed: <input checked="" type="checkbox"/> Entire Session <input type="checkbox"/> Partial Session (DCJS issued Exemption)		Session Dates: Start: <u>7/25/18</u> End: <u>7/27/18</u>

**Entry level Subjects**

<input type="checkbox"/> 01E Security Officer Core Subjects <input type="checkbox"/> 02E Private Investigator <input type="checkbox"/> 03E Armored Car Personnel <input type="checkbox"/> 4ES Security Canine Handler <input type="checkbox"/> 4ED Detector Canine Handler <input type="checkbox"/> 05E Armed Security Officer Arrest Authority <input checked="" type="checkbox"/> 06E Special Conservator of the Peace Core Subjects <input type="checkbox"/> 25E Locksmith	<input type="checkbox"/> 30E Electronic Security Core Subjects <input type="checkbox"/> 32E Personal Protection Specialist <input type="checkbox"/> 35E Electronic Security Technician <input type="checkbox"/> 38E Central Dispatcher <input type="checkbox"/> 39E Electronic Security Sales Representative <input type="checkbox"/> 40E Bail Bondsman <input type="checkbox"/> 44E Bail Enforcement Agent
--	---

**In-Service Subjects**

<input type="checkbox"/> 01I Security Officer Core Subjects <input type="checkbox"/> 02I Private Investigator <input type="checkbox"/> 03I Armored Car Personnel <input type="checkbox"/> 4IS Security Canine Handler <input type="checkbox"/> 4ID Detector Canine Handler <input checked="" type="checkbox"/> 06I Special Conservator of the Peace Core Subjects	<input type="checkbox"/> 25I Locksmith <input type="checkbox"/> 30I Electronic Security Core Subjects <input type="checkbox"/> 32I Personal Protection Specialist <input type="checkbox"/> 40I Bail Bondsman <input type="checkbox"/> 44I Bail Enforcement Agent
--	--

**Firearms Training**

<input type="checkbox"/> 07E Entry-Level Handgun <input type="checkbox"/> 75E Security Officer Handgun <input type="checkbox"/> 07R Handgun Re-Training	<input type="checkbox"/> 08E Shotgun <input type="checkbox"/> 08R Shotgun Re-Training <input type="checkbox"/> 10E Patrol Rifle	<input type="checkbox"/> 10R Patrol Rifle Re-Training <input type="checkbox"/> 09E Advanced Handgun <input type="checkbox"/> 09R Advanced Handgun Re-Training
Revolver <input type="checkbox"/> Pass      Semi-Automatic <input type="checkbox"/> Pass      Shotgun <input type="checkbox"/> Pass		
Caliber _____ Score _____ % _____ Caliber _____ Score _____ % _____	Caliber _____ Score _____ % _____ Caliber _____ Score _____ % _____	Type _____ Score _____ % _____ Type _____ Score _____ % _____
Patrol Rifle <input type="checkbox"/> Pass		
Caliber _____ Score _____ % _____ Caliber _____ Score _____ % _____		

**Certification of Completion**

Signature: <u>[Signature]</u> Primary Instructor	DCJS ID Number: <u>051047</u>	Date: <u>07/27/18</u> mm/dd/yy
Signature: <u>[Signature]</u> Training School Director	DCJS ID Number: <u>051047</u>	Date: <u>07/27/18</u> mm/dd/yy



**COMMONWEALTH OF VIRGINIA**  
 Department of Criminal Justice Services  
 P.O. Box 1300 • Richmond, VA 23218  
 Phone: (804) 786-4700 • Fax: (804) 786-6344 [www.dcjs.virginia.gov/pss](http://www.dcjs.virginia.gov/pss)

Status Hotline  
 (804) 786-1132  
 1-877-9STATUS

### TRAINING COMPLETION RECORD

#### IMPORTANT INFORMATION

- This document is for the student's personal record – Do not submit to DCJS.
- The Private Security Services Training School will report completion of training to DCJS.
- Only one course of training may be recorded on an individual training completion record form.

Training School DCJS ID Number: 88-10089	Private Security Services Training School: SafeSide Range & Training	Phone: (540) 682 8881
Student Name: <i>Brian Austin</i>		Student ID Number: _____
Student Completed: <input checked="" type="checkbox"/> Entire Session <input type="checkbox"/> Partial Session (DCJS Issued Exemption)	Session Dates: Start: <i>7/28/18</i> End: <i>7/29/18</i>	

**Entry Level Subjects**

<input type="checkbox"/> 01E Security Officer Core Subjects	<input type="checkbox"/> 30E Electronic Security Core Subjects
<input type="checkbox"/> 02E Private Investigator	<input type="checkbox"/> 32E Personal Protection Specialist
<input type="checkbox"/> 03E Armored Car Personnel	<input type="checkbox"/> 35E Electronic Security Technician
<input type="checkbox"/> 4ES Security Canine Handler	<input type="checkbox"/> 38E Central Dispatcher
<input type="checkbox"/> 4ED Detector Canine Handler	<input type="checkbox"/> 39E Electronic Security Sales Representative
<input type="checkbox"/> 05E Armed Security Officer Arrest Authority	<input type="checkbox"/> 40E Bail Bondsman
<input type="checkbox"/> 06E Special Conservator of the Peace Core Subjects	<input type="checkbox"/> 44E Bail Enforcement Agent
<input type="checkbox"/> 26E Locksmith	

**Intermediate Subjects**

<input type="checkbox"/> 01I Security Officer Core Subjects	<input type="checkbox"/> 25I Locksmith
<input type="checkbox"/> 02I Private Investigator	<input type="checkbox"/> 30I Electronic Security Core Subjects
<input type="checkbox"/> 03I Armored Car Personnel	<input type="checkbox"/> 32I Personal Protection Specialist
<input type="checkbox"/> 4IS Security Canine Handler	<input type="checkbox"/> 40I Bail Bondsman
<input type="checkbox"/> 4ID Detector Canine Handler	<input type="checkbox"/> 44I Bail Enforcement Agent
<input type="checkbox"/> 06I Special Conservator of the Peace Core Subjects	

**Firearms Training**

<input checked="" type="checkbox"/> 07E Entry-Level Handgun	<input type="checkbox"/> 08E Shotgun	<input type="checkbox"/> 10R Patrol Rifle Re-Training
<input type="checkbox"/> 75E Security Officer Handgun	<input type="checkbox"/> 08R Shotgun Re-Training	<input type="checkbox"/> 09E Advanced Handgun
<input type="checkbox"/> 07R Handgun Re-Training	<input type="checkbox"/> 10E Patrol Rifle	<input type="checkbox"/> 09R Advanced Handgun Re-Training

Revolver:  Pass      Semi-Automatic:  Pass      Shotgun:  Pass

Caliber _____ Score _____ % _____	Caliber <i>9mm</i> Score <i>300</i> % <i>100</i>	Type _____ Score _____ % _____
Caliber _____ Score _____ % _____	Caliber _____ Score _____ % _____	Type _____ Score _____ % _____

Patrol Rifle:  Pass

Caliber _____ Score _____ % _____
Caliber _____ Score _____ % _____

**Certification of Completion**

Signature: <i>A. Curtis Lynch</i> Primary Instructor	DCJS ID Number: <i>99-199512</i>	Date: <i>7/29/18</i> mm/dd/yy
Signature: <i>Ken English</i> Training School Director	DCJS ID Number: <i>051047</i>	Date: <i>07/29/18</i> mm/dd/yy

GARY B. PARSONS  
Sheriff



LEE COUNTY SHERIFF'S DEPARTMENT

P. O. Box 177  
Jonesville, Virginia 24268  
276-346-7753

To The Circuit Court of Lee County Virginia:

I write this letter asking you grant Special Conservator of the Peace status to those employees of the Lee County School Division who are being submitted by the Division. The need for the Special Conservator of the Peace designation is to increase security in our county schools. I have been in close consultation with the School Superintendent and am confident the proper training and Department of Criminal Justice requirements are being met. All of those applying will have concealed carry permits and have gone through psychological testing as well as an extensive back ground check. Those applying will have no arrest powers and will have security authority on the property of the Lee County Virginia School Division only.

Respectfully,

A handwritten signature in black ink, appearing to read "G. B. Parsons".

Gary B. Parsons



# Assessment and Forensic Services

a division of Frontier Health

2001 STONEDROOK PLACE  
KINGSFORD, TN 37060  
Phone: 423-224-1318  
Fax: 423-224-1328  
www.frontierhealth.org

## PSYCHOLOGICAL EVALUATION REPORT

**NAME:** Brian Timothy Austin  
**DOB:**  
**DATE OF EVALUATION:** 07/12/18  
**DATE OF REPORT:** 07/12/18  
**EXAMINER:** Willard Sims, M.Ed.  
Licensed Senior Psychological Examiner

### SOURCE OF REFERRAL:

Brian Austin was referred to Assessment and Forensic Services for a psychological evaluation by the Lee County, Virginia School System to assess his current level of personality/emotional functioning in relation to the nature of his employment with the school system as he currently serves as the superintendent of the school system.

### EVALUATION PROCEDURES:

Clinical Interview  
Brief Symptom Inventory (BSI)  
Minnesota Multiphasic Personality Inventory-2 (MMPI-2)

### BEHAVIORAL OBSERVATIONS:

Brian is a 44 year old Caucasian married male who arrived on time for his evaluation. He was cooperative with the assessment process and answered questions in a prompt manner. Based on his immediate presentation, social history, and psychological evaluation results, there was no evidence of any current psychotic processes. He was not in any distress at the time of the assessment.

### EVALUATION RESULTS:

Brian Austin is seeking to continue and expand the nature of his employment with the Lee County School System. No current significant behavioral or emotional difficulties are suggested by the test data. Good overall adjustment is present. There were no indications that he has any psychological problems that would preclude his ability to carry a weapon/pepper spray as part of employment responsibilities with the Lee County, Virginia School System. This assessment reflects this individual's current level of functioning and may not be predictive of future work performance. Should he suffer any disabling injuries, emotional disturbance, or other change of circumstance, this evaluation may become invalid.

Willard Sims, M.Ed.  
Licensed Senior Psychological Examiner  
Health Service Provider in Psychology

Code of Virginia

Title 19.2. Criminal Procedure

Chapter 2. Conservators of the Peace and Special Policemen

## **§ 19.2-13.1. Application for special conservator of the peace by locality**

No official or employee of a school board or county, city, or town, its departments, or its agents shall submit an application for the appointment of a special conservator of the peace without attaching a written assessment from the chief law-enforcement officer of the locality stating the need for the appointment and recommending any limitations that should be included in the order of appointment to the application submitted to the court pursuant to subsection A of § 19.2-13.

2016, c. 416.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

### **§ 18.2-308.1. Possession of firearm, stun weapon, or other weapon on school property prohibited; penalty**

A. If any person knowingly possesses any (i) stun weapon as defined in this section; (ii) knife, except a pocket knife having a folding metal blade of less than three inches; or (iii) weapon, including a weapon of like kind, designated in subsection A of § 18.2-308, other than a firearm; upon (a) the property of any public, private or religious elementary, middle or high school, including buildings and grounds; (b) that portion of any property open to the public and then exclusively used for school-sponsored functions or extracurricular activities while such functions or activities are taking place; or (c) any school bus owned or operated by any such school, he is guilty of a Class 1 misdemeanor.

B. If any person knowingly possesses any firearm designed or intended to expel a projectile by action of an explosion of a combustible material while such person is upon (i) any public, private or religious elementary, middle or high school, including buildings and grounds; (ii) that portion of any property open to the public and then exclusively used for school-sponsored functions or extracurricular activities while such functions or activities are taking place; or (iii) any school bus owned or operated by any such school, he is guilty of a Class 6 felony.

C. If any person knowingly possesses any firearm designed or intended to expel a projectile by action of an explosion of a combustible material within a public, private or religious elementary, middle or high school building and intends to use, or attempts to use, such firearm, or displays such weapon in a threatening manner, such person is guilty of a Class 6 felony and sentenced to a mandatory minimum term of imprisonment of five years to be served consecutively with any other sentence.

The exemptions set out in §§ 18.2-308 and 18.2-308.016 shall apply, mutatis mutandis, to the provisions of this section. ~~The provisions of this section shall not apply to:~~ (i) persons who possess such weapon or weapons as a part of the school's curriculum or activities; (ii) a person possessing a knife customarily used for food preparation or service and using it for such purpose; (iii) persons who possess such weapon or weapons as a part of any program sponsored or facilitated by either the school or any organization authorized by the school to conduct its programs either on or off the school premises; (iv) any law-enforcement officer, or retired law-enforcement officer qualified pursuant to subsection C of § 18.2-308.016; (v) any person who possesses a knife or blade which he uses customarily in his trade; (vi) a person who possesses an unloaded firearm that is in a closed container, or a knife having a metal blade, in or upon a motor vehicle, or an unloaded shotgun or rifle in a firearms rack in or upon a motor vehicle; (vii) a person who has a valid concealed handgun permit and possesses a concealed handgun while in a motor vehicle in a parking lot, traffic circle, or other means of vehicular ingress or egress to the school; (viii) a school security officer authorized to carry a firearm pursuant to § 22.1-280.2:1; or (ix) an armed security officer, licensed pursuant to Article 4 (§ 9.1-138 et seq.) of Chapter 1 of Title 9.1, hired by a private or religious school for the protection of students and employees as authorized by such school. For the purposes of this paragraph, "weapon" includes a knife having a metal blade of three inches or longer and "closed container" includes a locked vehicle trunk.



Book	Lee County School Board Policy Manual
Section	K - School-Community Relations
Title	Relations With Law Enforcement Authorities
Number	KNAJ
Status	Active
Adopted	July 12, 2004
Last Revised	June 14, 2018

#### Investigations by Law Enforcement Officers at School

When it becomes necessary for any law enforcement officer to interrogate a student on school premises, the principal is contacted immediately. The principal or principal's designee makes a reasonable effort to contact the parent or guardian and have the parent or guardian in attendance for the conference. If the parent or guardian cannot be present for the conference, then the principal or principal's designee shall be present throughout the interrogation.

#### Service of Process at School

Should there be a need to serve a student or school employee with any "legal process", the School Board encourages the process server to make all reasonable attempts to serve such documents off school premises; however, if the documents must be served on school premises, they should be served at the principal's office of the school which the student attends or the main office of the facility at which the employee is assigned.

In any case in which custody or visitation of a minor child is at issue and a summons is issued for the attendance and testimony of a teacher or other school employee who is not a party to the proceeding, if such summons is served on school property, it may be served only by a sheriff or his deputy.

#### Development of Programs

The superintendent seeks to develop, in cooperation with the local law-enforcement agencies, juvenile and domestic relations court judges and personnel, parents, and the community at large, programs and procedures to prevent violence and crime on school property and at school-sponsored events. The superintendent obtains and uses the Sex Offender Registry information in accordance with School Board Policy KN, Sex Offender Registry Notification.

#### Report to Law Enforcement Officials

Except as may otherwise be required by federal law, regulation, or jurisprudence, the principal immediately reports to local law-enforcement officials all incidents listed below that may constitute a criminal offense:

1. assault and battery which results in bodily injury, sexual assault, death, shooting, stabbing, cutting, or wounding of any person, abduction of any person as described in Va. Code §§ 18.2-47 or 18.2-48, or stalking of any person as described in Va. Code § 18.2-60.3, on a school bus, on school property, or at a school-sponsored activity; or
2. any conduct involving alcohol, marijuana, a controlled substance, imitation controlled substance, or an anabolic steroid on a school bus, on school property, or at a school-sponsored activity, including the theft of or attempted theft of student prescription medications; or
3. any threats against school personnel while on a school bus, on school property, or at school-sponsored activity; or
4. the illegal carrying of a firearm, as defined by Va. Code § 22.1-277.07, onto school property;
5. any illegal conduct involving firebombs, explosive materials or devices, or hoax explosive devices, as defined in Va. Code § 18.2-85, or explosive or incendiary devices, as defined in Va. Code § 18.2-433.1, or chemical bombs, as described in Va. Code § 18.2-87.1, on a school bus, on school property, or at a school-sponsored activity; or
6. any threats or false threats to bomb, as described in Va. Code § 18.2-83, made against school personnel or involving school property or school buses.



Book	Lee County School Board Policy Manual
Section	K - School-Community Relations
Title	School Security Agent Program
Number	KNAJ-BR
Status	Active
Adopted	July 12, 2018

The Lee County School Board (School Board) authorizes the division superintendent to develop a School Security Agent (SSA) program in partnership with the Lee County Sheriff's Office to allow authorized School Board employees to carry concealed firearms on School Board Property or store them in approved safes in their workspace on School Board Property.

Any School Board employee who is in good standing as evidenced by an annual evaluation may apply for the program by contacting the division superintendent and submitting a written application. Electronic and/or verbal requests for this program will not be accepted and such submissions may be grounds for exemption from the program. Priority consideration for the program shall be given to individuals with prior successful military or law enforcement experience.

After completion of the application and interview with the division superintendent, the employee must complete a psychological test used to determine eligibility for employment as a law enforcement officer. The test will be administered by a third-party, licensed organization. The employee shall complete any and all necessary paperwork to release the results of the psychological test to the division superintendent to determine the employee's eligibility for the program.

The employee will be expected to pay \$100 cash at the time of the interview with the division superintendent and/or members of the Lee County Sheriff's Office. The payment will be receipted and held by the division superintendent on behalf of the School Board. If the employee passes the test, then the deposit will be refunded in full. If the employee does not pass the test, then the deposit will be used to offset the cost of the test.

The division superintendent will not grant approval of a staff member's request who has any history that would indicate any type of mental or emotional instability.

Upon successful completion of the application, interview, the psychological test, a National Instant Criminal Background Check System (NICS) screening, and initial approval by the division superintendent, related training with the Lee County Sheriff's Office will be scheduled. Prior to the training, all applicants must sign a release that they have read and understand this School Board Policy. Furthermore, each applicant must certify the mutual understanding that such training and the request to possess a concealed firearm on School Board property is voluntary and is not required as a condition of employment with the School Board.

The division superintendent and Lee County Sheriff (Sheriff) will collaborate to develop procedures related to the initial training and recertification for this program, which shall include a review of laws regarding the appropriate use of force for the defense of self and others, fundamentals of marksmanship, and the appropriate handling and storage of the approved concealed firearms.

No such authorized weapon shall be drawn on school premises unless there is a situation that necessitates the weapon be drawn or used to protect students and staff.

No School Board employee shall be permitted to carry concealed firearms on School Board property or store them in approved safes on School Board Property until all of the requirements of this School Board Policy and related procedures are completed. To receive and subsequently maintain authorization, all approved personnel shall qualify to the standard required by the Sheriff for each type of weapon authorized.

Employees who complete the procedures related to this School Board Policy shall be subject to an annual criminal history background check at the discretion of the division superintendent. The division superintendent may at any time remove or suspend the authority granted to any employee under this School Board Policy. After completion of this program, the employee shall be under the direct supervision and control of division and school administrations.

The division superintendent, division superintendent's designees, and principal of each school shall be the only School Board employees who will be made aware of and have access to the list of employees who are certified through this School Board Policy and related procedures. Each principal will be provided a list of individuals who are participating in this program at that school. This list will not be subject to any disclosure due to related school safety concerns. Any disclosure by School Board employees may result in disciplinary consequences, up to and including, disqualification from this program or termination.

VIRGINIA: IN THE CIRCUIT COURT OF LEE COUNTY

IN RE: APPLICATION FOR APPOINTMENT OF SPECIAL CONSERVATOR  
OF THE PEACE OF:

JOHN DOE 1  
JOHN DOE 2  
JOHN DOE 3  
JOHN DOE 4  
JOHN DOE 5  
JOHN DOE 6  
JOHN DOE 7  
JOHN DOE 8  
JOHN DOE 9

Case No.

JANE DOE 10  
JANE DOE 11  
JANE DOE 12  
JANE DOE 13

**PETITION TO FILE UNDER SEAL APPLICATIONS FOR APPOINTMENT OF  
SPECIAL CONSERVATOR OF THE PEACE**

COMES NOW the Lee County School Board ("School Board"), and petitions this Court to permit the Applications for Appointment of Special Conservators of the Peace of John Does 1 through 9 and Jane Does 10 through 13 (collectively, the "Applicants") to be filed under seal, and in support thereof, states as follows:

1. School shootings have become a national crisis, and school boards are tasked with responding to student and staff safety concerns. The Lee County School Board, in consultation with Lee County Sheriff Gary B. Parsons, has approved a policy that would allow certain designated LCPS staff to carry firearms on School Board property (the "Program"), in order to provide enhanced security to Lee County Public Schools ("LCPS"),

2. The School Board staff selected for the Program, who are the Applicants herein, have been subjected to thorough background screenings, and have undergone training to qualify them for the Program.

3. The Program is part of the greater security plan for LCPS, and as such, the identity of the individuals selected for the Program is exempt from disclosure under the Virginia Freedom of Information Act, Virginia Code § 2.2-3700 *et seq.*, pursuant to Virginia Code § 2.2-3705.2(14).

4. The School Board has an interest in maintaining the confidentiality of its security plan, including the identities of the Applicants, in order to avoid undermining its security plan.

5. As a result, the School Board asks this Court to permit the filing of the Applicants' applications and any Order confirming the applications to be made under seal, and to remain under seal until further order of this Court.

6. The Applicants consent to this request.

WHEREFORE, the Lee County School Board respectfully requests that the Court enter an order permitting the filing of the Applications for Appointment of Special Conservators of the Peace of John Does 1 through 9 and Jane Does 10 through 13 to be made under seal, and confirming that any orders granted regarding said applications shall also be made under seal.

Respectfully submitted,

LEE COUNTY PUBLIC SCHOOLS

By Counsel

**COUNSEL:**

---

William J. Sturgill, Esquire  
Sturgill Law Office, P.C.  
944 Norton Road  
P. O. Box 3458  
Wise, Virginia 24293  
276-328-8600  
272-328-3903 (facsimile)

105101673\_1



**COMMONWEALTH OF VIRGINIA**

**Department of Criminal Justice Services**

P.O. Box 1300 • Richmond, VA 23218

Phone: (804) 786-4700 • Fax: (804) 786-6344

[www.dcjis.virginia.gov/pss](http://www.dcjis.virginia.gov/pss)

Status Hotline  
(804) 786-1132  
1-877-9STATUS

**CREDIT CARD AUTHORIZATION FORM**

This form is to be used for **CREDIT CARD PAYMENTS ONLY**. Please do not send this form without a completed application or description of why you are submitting this form, as incomplete forms and applications will be returned resulting in a delay in processing. VISA, MasterCard, AMEX accepted

Credit Card Number

[Redacted credit card number]

Card Security Code

*MasterCard and Visa have a 3-digit code on the back of the card. American Express has a 4-digit code on the front of the card.*

Payment Amount \$ 85

Credit Card Expiration Date:

Month \_\_\_\_\_ Year \_\_\_\_\_

Cardholder Name (Print): Lee Cty Pub Schools

DCJS ID: \_\_\_\_\_

Cardholder's Address: 155 Vo Tech Drive

Street Address

Jonesville

City

Virginia

State

24263

Zip

Cardholder's Signature: B.T. Austin

Daytime Phone Number: 276-346-2107

Memo (why are you submitting this form?): Payment for SCOP application and Criminal History

Please provide a valid email address to receive a receipt confirmation of payment: brian.austin@lee.k12.va.us

11/2013

# EXHIBIT D



# COMMONWEALTH of VIRGINIA

*Department of Criminal Justice Services*

Shannon Dion  
Director

1100 Bank Street  
Richmond, Virginia 23219  
(804) 786-4000

September 12, 2018

Brian T. Austin

CERTIFIED MAIL  
7017-0530-0000-7109-6495

Dear Mr. Austin:

The Department has received your application for a special conservator of the peace registration. In an official advisory opinion issued on August 28, 2018, the Attorney General of Virginia concluded that (i) special conservators of the peace are prohibited by Va. Code § 18.2-308.1 from possessing a firearm on school property and (ii) teachers and other school personnel are, therefore, necessarily prohibited from being appointed as armed special conservators of the peace for school safety purposes. As a part of this opinion, the Attorney General of Virginia advised the Department that it must deny a registration to any applicant when the proposed appointment of the applicant as a special conservator of the peace would contravene Virginia law.

**In accordance with the reasoning stated in the Attorney General's opinion dated August 28, 2018, your application for a special conservator of the peace registration is hereby denied.**

Pursuant to the Administrative Process Act (Va. Code § 2.2-4019) you may request an Informal Fact Finding Conference ("IFFC") to review this decision. If you elect to request an IFFC, you must notify me in writing no later than October 13, 2018. After that date, you are not eligible to appeal the decision made in this matter to deny your special conservator of the peace registration. Also, please be aware that inquiries regarding the denial of the registration referenced does not suspend or stop the time to request an IFFC.

If you have any questions concerning this letter, please contact Athena Davis at [athena.davis@dcjs.virginia.gov](mailto:athena.davis@dcjs.virginia.gov) or (804) 371-2669.

Sincerely,

Robert S. Mason, Manager  
Customer Service and Criminal History  
Division of Licensure and Regulatory Services

# EXHIBIT E



# Lee County Public Schools

**Brian T. Austin, Ph.D.**  
Division Superintendent

155 Vo Tech Drive  
Jonesville, Virginia 24263  
Phone: (276) 346-2107  
Fax: (276) 346-0307  
[www.lcc.k12.va.us](http://www.lcc.k12.va.us)

**Board Members**  
Mike Kidwell, Chair  
Debbie Jessee, Vice Chair  
Pam Fannon  
E. Ty Harber  
Rob Hines

September 14, 2018

Department of Criminal Justice Services  
Attention: Robert S. Mason, Manager  
1100 Bank Street, 12th Floor  
Richmond, Virginia 23219

Dear Mr. Mason:

This request is related to the application for a special conservator of the peace registration that was denied to me as an individual at the address of [REDACTED]

Since this request was partially denied on the grounds that I serve a public school division in the Commonwealth of Virginia, I feel that I should submit this letter from my official capacity as Division Superintendent of Lee County Public Schools.

Consistent with the *Code of Virginia* § 2.2-4019, I consent to waive the informal fact finding proceeding and am requesting that the Department of Criminal Justice Services (DCJS) also consent to waive the informal fact finding proceeding.

Furthermore, I am requesting of Secretary Moran and DJCS that a summary case decision be issued consistent with the *Code of Virginia* § 2.2-4020.1 as follows:

1. No material facts are in dispute;
2. There are no stipulations of all such undisputed material facts concerning the application or notice;
3. We disagree with grounds of the denial in that "the official advisory opinion issued on August 28, 2018, [by] the Attorney General of Virginia concluded that (i) special conservators of the peace are prohibited by *Code of Virginia* § 18.2-308.1 from possessing a firearm on school property and (ii) teachers and other school personnel are, therefore, necessarily prohibited from being appointed as armed special conservators of the peace for school safety purposes."
4. I hereby waive my right to any other administrative proceeding provided in the *Code* by the DCJS on the questions of law to be decided by summary case decision.

Please let me know if you have any questions or need any further information.

Respectfully,

Brian T. Austin, Ph.D.  
Division Superintendent

# EXHIBIT F



# Lee County Public Schools

**Brian T. Austin, Ph.D.**  
Division Superintendent

155 Vo Tech Drive  
Jonesville, Virginia 24263  
Phone: (276) 346-2107  
Fax: (276) 346-0307  
[www.lee.k12.va.us](http://www.lee.k12.va.us)

**Board Members**  
Mike Kidwell, Chair  
Debbie Jessee, Vice Chair  
Pam Fannon  
E. Ty Harber  
Rob Hines

September 18, 2018

Department of Criminal Justice Services  
Attention: Shannon Dion, Director  
1100 Bank Street, 12th Floor  
Richmond, Virginia 23219

Dear Ms. Dion:

This request is related to the application for a special conservator of the peace registration that was denied to me as an individual at the address of

Since this request was partially denied on the grounds that I serve a public school division in the Commonwealth of Virginia, I feel that I should submit this letter from my official capacity as Division Superintendent of LCPS.

Consistent with the *Code of Virginia* § 2.2-4019, I sent a request to Robert Mason last week and consented to waive the informal fact finding proceeding and am requested that the Department of Criminal Justice Services (DCJS) also consent to waive this proceeding.

Furthermore, I am requesting that a summary case decision be issued per the *Code of Virginia* § 2.2-4020.1 as follows:

1. No material facts are in dispute.
2. There are no stipulations of all such undisputed material facts concerning the application or notice. That is, the Lee County School Board adopted a policy to permit the development of a program to allow for staff members to be armed on School Board property. The Lee County Sheriff and I chose to use the Special Conservator of the Peace (SCOP) program as set forth by DCJS. I completed all of the necessary paperwork, training, and related processes and accordingly applied for issuance of a temporary SCOP registration. The application was denied by DCJS per the letter dated September 12, 2018.
3. We disagree with the grounds of the denial in that "the official advisory opinion issued on August 28, 2018, [by] the Attorney General of Virginia concluded that (i) special conservators of the peace are prohibited by *Code of Virginia* § 18.2-308.1 from possessing a firearm on school property and (ii) teachers and other school personnel are, therefore, necessarily prohibited from being appointed as armed [SCOPs] for school safety purposes."
4. I hereby waive my right to any other administrative proceeding provided in the *Code* by the DCJS on the questions of law to be decided by summary case decision.

Please let me know if you have any questions or need any further information.

Respectfully,

A handwritten signature in black ink that reads "B. T. Austin".

Brian T. Austin, Ph.D.  
Division Superintendent

# EXHIBIT G



# COMMONWEALTH of VIRGINIA

## *Department of Criminal Justice Services*

Shannon Dion  
Director

1100 Bank Street  
Richmond, Virginia 23219  
(804) 786-4000

October 12, 2018

Brian T. Austin  
155 Vo Tech Drive  
Jonesville, Virginia 24263

**CERTIFIED MAIL**  
**7016-0910-0001-6873-8638**

Dear Mr. Austin:

The Department has received your request for a summary case decision pursuant to Va. Code § 2.2-4020.1 with regard to the Department's denial of your application for a special conservator of the peace registration in a letter dated September 12, 2018. The stated reason for the denial was as follows:

In an official advisory opinion issued on August 28, 2018, the Attorney General of Virginia concluded that (i) special conservators of the peace are prohibited by Va. Code § 18.2-308.1 from possessing a firearm on school property and (ii) teachers and other school personnel are, therefore, necessarily prohibited from being appointed as armed special conservators of the peace for school safety purposes. As a part of this opinion, the Attorney General of Virginia advised the Department that it must deny a registration to any applicant when the proposed appointment of the applicant as a special conservator of the peace would contravene Virginia law.

Consistent with the provisions of Va. Code § 2.2-4020.1, your request for a summary case decision includes a statement that there are no material facts in dispute, a proposed stipulation of all such undisputed material facts, and a clear and concise statement of the question of law to be decided by summary case decision. Specifically, your request for a summary case decision stipulates to the following facts:

- The Lee County School Board adopted a policy to permit the development of a program to allow staff members to be armed on School Board property.
- The Lee County Sheriff and Brian Austin, Superintendent, Lee County Public Schools, chose to use the Special Conservator of the Peace (SCOP) program as set forth by DCJS.
- Brian Austin, in his capacity as a Lee County School Board staff member, completed all of the necessary paperwork, training, and related processes and accordingly applied for issuance of a temporary SCOP registration.
- Brian Austin's application was denied by DCJS per the letter dated September 12, 2018.

Brian T. Austin  
October 12, 2018  
Page Two

Turning to the question of law to be decided by summary case decision, your request states that you disagree with the legal conclusions set forth in the Attorney General's opinion upon which the Department's denial of your application was premised.

The Department concurs that there are no undisputed issues of material fact in the present dispute and accepts your stipulation concerning your application for a special conservator of the peace registration and its subsequent denial. Correspondingly, the Department also concurs that the present dispute may properly be decided by summary case decision and grants your request for summary case decision. Because your request has been granted, you have no right to any other administrative proceeding provided by Article 3 (Va. Code § 2.2-4018 et seq.) of the Administrative Process Act on this question of law.

Pursuant to subsection D of Va. Code § 2.2-4020.1, the Department is required to establish a schedule for the parties to submit briefs on the question of law in dispute. You must submit any brief on the question of law in dispute no later than 33 days from the date of this letter. If no brief is submitted, the Department will proceed to render a summary case decision based on the record before it. There will be no oral arguments held on the question of law in dispute prior to the Department's decision.

If you have any questions concerning this letter, please contact me at [david.cotter@dcjs.virginia.gov](mailto:david.cotter@dcjs.virginia.gov) or (804) 225-3471.

Sincerely,



David Cotter  
Director of Policy and Legislative Affairs

# EXHIBIT H



# Lee County Public Schools

**Brian T. Austin, Ph.D.**  
Division Superintendent

155 Vo Tech Drive  
Jonesville, Virginia 24263  
Phone: (276) 346-2107  
Fax: (276) 346-0307  
[www.lee.k12.va.us](http://www.lee.k12.va.us)

**Board Members**  
Mike Kidwell, Chair  
Debbie Jessee, Vice Chair  
Pam Fannon  
E. Ty Harber  
Rob Hines

October 15, 2018

Department of Criminal Justice Services  
Attention: David Cotter  
1100 Bank Street, 12th Floor  
Richmond, Virginia 23219

Dear Mr. Cotter:

This letter-brief is my submission in accordance with the letter dated October 12, 2018 granting my request for a summary case decision per the *Code of Virginia* § 2.2-4020.1 and requiring my brief within 33 days thereof. My request was in response to the denial letter that was issued to me by the Department of Criminal Justice Services (DCJS) on September 12, 2018.

Because my request for temporary registration as a special conservator of the peace (SCOP) was denied at least in part on the grounds that I am an employee of a public school division in the Commonwealth of Virginia, I continue to believe that I should submit this letter from my official capacity as Division Superintendent of Lee County Public Schools.

Consistent with the *Code of Virginia* § 2.2-4020.1(D), this letter is intended to serve as my brief on the questions of the law in dispute.

I disagree with the grounds of the denial. That is, the law in dispute is the interpretation of the phrase "any program" in the *Code of Virginia* § 18.2-308.1(C)(iii). The letter that served to deny my application for a temporary registration as a SCOP states that "the official advisory opinion issued on August 28, 2018, [by] the Attorney General of Virginia concluded that (i) special conservators of the peace are prohibited by *Code of Virginia* § 18.2-308.1 from possessing a firearm on school property and (ii) teachers and other school personnel are, therefore, necessarily prohibited from being appointed as armed special conservators of the peace for school safety purposes."

Since I have completed all of the necessary requirements to be issued the temporary registration as a SCOP, I hold that the *Code* has been inaccurately interpreted.

First, given that I have complied with all of the current requirements to become an armed SCOP, the only role of DCJS is ministerial, namely, to issue my registration acknowledging my fulfillment of those requirements. Instead, in my case, DCJS has taken on the role assigned by law to the Circuit Court, that is, to decide whether I might obtain appointment as a SCOP. Thus, DCJS has acted beyond its legal authority and should reverse its position and issue my registration. Such reversal would allow me to proceed to Circuit Court for a proper determination in accordance with *Code of Virginia* §§ 19.2-13 and 13.1.

Second, the conclusion of the Attorney General upon which DCJS relied cannot be correct in light of the existence of *Code of Virginia* § 19.2-13.1, which by its very existence demonstrates that a school board employee, such as myself can, can in some circumstances also be a SCOP. Furthermore, there is no distinction made within *Code of Virginia* § 19.2-13.1 between armed and unarmed SCOPs, thus DCJS's position flies in the face of the *Code* itself and DCJS should reverse its position and issue my registration.

I would appreciate obtaining a reversal by DCJS and an issuance of my SCOP<sup>1</sup> temporary registration so that I can proceed to Circuit Court to seek actual appointment as a SCOP in accordance with *Code of Virginia*.

As further matter, I waive my right to present oral argument.

Please let me know if you have any questions or need any further information.

Respectfully,

A handwritten signature in black ink that reads "B.T. Austin". The signature is written in a cursive style with a long horizontal stroke at the end.

Brian T. Austin, Ph.D.  
Division Superintendent

# EXHIBIT I



# COMMONWEALTH of VIRGINIA

*Department of Criminal Justice Services*

Shannon Dion  
Director

Megan Peterson  
Chief Deputy Director

Washington Building  
1100 Bank Street  
Richmond, Virginia 23219  
(804) 786-4000  
[www.dcjs.virginia.gov](http://www.dcjs.virginia.gov)

January 11, 2019

Brian T. Austin  
155 Vo Tech Drive  
Jonesville, Virginia 24263

CERTIFIED MAIL

**7018-0360-0001-8366-2047**

Dear Mr. Austin:

The Department has rendered a summary case decision pursuant to Va. Code § 2.2-4020.1 with regard to your request of September 18, 2018, that the Department reverse its decision to deny your application for a special conservator of the peace registration. A copy of the summary case decision is enclosed.

If you have any questions concerning this letter, please contact David Cotter at [david.cotter@dcjs.virginia.gov](mailto:david.cotter@dcjs.virginia.gov) or (804) 225-3471.

Sincerely,

A handwritten signature in cursive script that reads "Shannon Dion".

Shannon Dion

Enclosures

**VIRGINIA:**

**BEFORE THE DEPARTMENT OF CRIMINAL JUSTICE SERVICES  
Division of Licensure and Regulatory Services**

**IN RE:           BRIAN T. AUSTIN  
                  Application for Registration as Special Conservator of the Peace**

**PROCEDURAL POSTURE**

Pursuant to Va. Code § 2.2-4020.1, Brian Austin requested in a letter dated September 18, 2018, that the denial of his application for a special conservator of the peace (SCOP) registration be resolved by summary case decision by the Department of Criminal Justice Services (Department). The Department acquiesced to the request in a letter dated October 12, 2018, agreeing that there are no undisputed issues of material fact and requesting that Mr. Austin submit any brief in support of his position within 33 days.

Mr. Austin submitted a letter brief dated October 15, 2018, to the Department requesting that Department reverse its decision to deny Mr. Austin's application and presenting his arguments why the Department's decision was wrongly decided. Mr. Austin, in his letter brief, waived his right to present oral argument to the Department in this matter.

**STIPULATIONS OF THE PARTIES<sup>1</sup>**

1. On July, 12, 2018, the Lee County School Board adopted a policy to permit the development of a program to allow staff members to be armed on School Board property.
2. The Lee County Sheriff and Brian Austin, Superintendent, Lee County Public Schools, chose to use the SCOP program as set forth by DCJS.
3. Brian Austin, in his capacity as a Lee County School Board staff member, completed all of the necessary paperwork, training, and related processes and accordingly applied for issuance of a temporary SCOP registration on August 24, 2018.
4. Brian Austin's application was denied by DCJS in a letter dated September 12, 2018.

**DEPARTMENT'S SUMMARY CASE DECISION**

The Department adopts the undisputed issues of material fact in the present dispute. On August 24, 2018, Mr. Austin applied for an SCOP registration for the purpose of being appointed as an armed SCOP for Lee County Public School property. On August, 28, 2018, the Attorney General

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<sup>1</sup> The parties agreed to the stipulations as a part of the summary case decision process. *See* Letter from Brian T. Austin, Superintendent, Lee County Public Schools, to Shannon Dion, Director, Virginia Department of Criminal Justice Services (Sept. 18, 2018); and Letter from David Cotter, Director of Policy and Legislative Affairs, Virginia Department of Criminal Justice Services, to Brian T. Austin, Superintendent, Lee County Public Schools (Oct. 12, 2018). (Attached.)

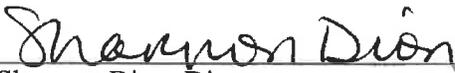
of Virginia issued a formal opinion concluding that (i) SCOPs are prohibited by Va. Code § 18.2-308.1 from possessing a firearm on school property and (ii) teachers and other school personnel are, therefore, necessarily prohibited from being appointed as armed SCOPs for school safety purposes.<sup>2</sup> The Attorney General of Virginia also advised the Department to deny a registration for any applicant when the proposed appointment of the applicant as an SCOP would contravene Virginia law. On September 12, 2018, based on the formal opinion of the Attorney General of Virginia, the Department denied Mr. Austin's application for SCOP registration.

Therefore, the Department finds that Mr. Austin's application for an SCOP registration should be denied for the reasons stated in the August 28, 2018, formal opinion from the Attorney General of Virginia, and the Department adopts the reasoning set forth in the opinion in its entirety. Accordingly, the Department upholds the denial of Mr. Austin's application for SCOP registration.

In accordance with Va. Code § 2.2-4020.1(A)(4), by opting to have this dispute resolved by summary case decision, Mr. Austin has waived his right to any other administrative proceeding provided by Article 3 (Va. Code § 2.2-4018 et seq.) of the Administrative Process Act. Consequently, the Department's decision may not be appealed to the Criminal Justice Services Board.

You are entitled to seek judicial review of this decision in accordance with the provisions of Article 5 (§ 2.2-4025 et seq.) of Chapter 40 of Title 2.2.

DEPARTMENT OF CRIMINAL JUSTICE  
SERVICES



Shannon Dion, Director

Date: 11/11/2019

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<sup>2</sup> 2018 Op Va. Att'y Gen. S-10, 2018 Va. AG S-10. (Attached.)