



2015-001

STATE OF ALABAMA
OFFICE OF THE ATTORNEY GENERAL

LUTHER STRANGE
ATTORNEY GENERAL

501 WASHINGTON AVENUE
P.O. BOX 300152
MONTGOMERY, AL 36130-0152
(334) 242-7300
WWW.AGO.ALABAMA.GOV

July 29, 2015

VIA CERTIFIED MAIL



Re: University of South Alabama and Auburn University

Dear [REDACTED]:

On June 4, 2015, my Office received your petition regarding a possible violation of Ala. Code § 13A-11-61.3 by the University of South Alabama and Auburn University. You alleged that both universities prohibit the carrying of firearms by all members of the university community, including visitors.

During my investigation, the universities confirmed that they promulgate and enforce such firearms policies. Both asserted that they are not political subdivisions covered by Ala. Code § 13A-11-61.3(f)'s enforcement provisions.

The universities are correct: they are not political subdivisions within the meaning of Ala. Code § 13A-11-61.3. The statute defines "political subdivision" as "[a] county, incorporated city, unincorporated city, public local entity, public-private partnership, and any other public entity of a county or city commonly considered to be a political subdivision of the state." Ala. Code § 13A-11-61.3(b)(6). By its text, the statutory definition of political subdivision does not include public universities. The definition of "public official" also refers to political subdivisions: "Any person elected to public office, whether or not that person has taken office, by the vote of the people of a political subdivision or its instrumentalities, including governmental corporations, and any person appointed to a position at the municipal level of government or its instrumentalities, including governmental corporations." *Id.* § 13A-11-61.3(b)(7). This indicates that the term "public official" used in Ala. Code § 13A-11-61.3(f) should not be read broadly to include university officials or state public officials generally within the Attorney General's enforcement authority.

July 29, 2015

Page Two

Alabama Supreme Court precedent also indicates that the universities are not political subdivisions. The universities are public corporations. *Vandenberg v. Aramark Educ. Servs., Inc.*, 81 So. 3d 326, 339 (Ala. 2011). The Alabama Supreme Court has held that public corporations are separate from the state and from political subdivisions of the state. *Thomas v. Ala. Mun. Elec. Auth.*, 432 So. 2d 470, 481 (Ala. 1983).

The Attorney General's enforcement authority under Ala. Code § 13A-11-61.3(f) is limited to violations of Alabama law by political subdivisions. By enacting this statute, the Legislature intended to "establish . . . complete control over regulation and policy pertaining to firearms, ammunition, and firearm accessories in order to ensure that such regulation and policy is applied uniformly throughout this state to each person subject to the state's jurisdiction and to ensure protection of the right to keep and bear arms recognized by the Constitutions of the State of Alabama and the United States." Ala. Code § 13A-11-61.3(a). But the enforcement provisions indicate that, upon determining that reasonable cause exists to pursue an action, the Attorney General must "provide the political subdivision or public official enacting or adopting the order, ordinance or rule 60 days' notice of his or her intent to file an action." Ala. Code § 13A-11-61.3(f)(2). In addition, S.B. 286, which enacted this statute, states that this section "provide[s] civil remedies to persons adversely affected by unauthorized action of a county or municipality relating to firearm regulation." Ala. Act. No. 2013-283.

Because the Attorney General's enforcement authority under Ala. Code § 13A-11-61.3(f) is limited to violations of Alabama firearms law by political subdivisions of the state, and because the universities are not political subdivisions, I have determined not to file suit. This letter should not be construed to express any opinion about the interpretation of Alabama's firearms law in general or as applied to universities or any other state entity that is not a political subdivision.

A redacted copy of this letter will be posted to my Office's website, in compliance with the statutory requirement that I "publicly state in writing the justification for the determination not to file suit." Ala. Code § 13A-11-61.3(f)(3).

Sincerely,



Luther Strange
Attorney General

LS:mak