



KANSAS BOARD OF REGENTS

FREQUENTLY ASKED QUESTIONS about CONCEALED CARRY ON CAMPUS¹

All State University Adopted Policies Shall Comply with Board Policies and Federal and/or State Law

1. Where can I find the concealed carry legislation?

A: The Personal and Family Protection Act is codified at K.S.A. 2015 Supp. 75-7c01 *et seq.* The statute that authorizes concealed carry in state and municipal buildings (including state university buildings) is K.S.A. 2015 Supp. 75-7c20. For the state universities, the provisions of this statute will become effective July 1, 2017. The statute that allows prohibition of open carry in buildings is K.S.A. 2015 Supp. 75-7c24.

2. What weapons are authorized under the concealed carry law?

A: Only handguns are authorized by the Personal and Family Protection Act, the Kansas concealed carry law. A handgun is defined for purposes of the Act as either (1) a pistol or revolver designed to be fired by the use of a single hand and designed to fire or capable of firing fixed cartridge ammunition; or (2) any other weapon which will or is designed to expel a projectile by the action of an explosive and which is designed to be fired by the use of a single hand. K.S.A. 2015 Supp. 75-7c02, 75-7b01, and Board policy subsection 14.b.ii. Other weapons – rifles, shotguns, fully automatic weapons, knives and other edged weapons – are still not permitted on campus.

¹ These are questions that have been directed to the Kansas Board of Regents office, or like offices in other states having laws similar to Kansas’.

3. Understanding that concealed carry can generally only be prohibited in a university building by providing adequate security measures (ASMs) at every public access entrance to that building, what is the definition of a public entrance? What conditions have to be met for an entrance not to be considered public? Who can go in and out of a "non-public" entrance and with what constraints?

A: The terms “public entrance” and “public access entrance” are not defined in the Private and Family Protection Act, but “restricted access entrance” is defined as:

“...an entrance that is restricted to the public and requires a key, keycard, code, or similar device *to allow entry to authorized personnel.*” K.S.A. 2015 Supp. 75-7c20(m)(3) (emphasis added).

Because this definition refers to "authorized personnel," as the individuals who would have authority to enter a restricted access entrance, the implication is that if anyone other than "authorized personnel" has access through a particular entrance, it is not considered "restricted access" under this particular law. There is also an implication that a public access entrance is anything other than a restricted access entrance, so if anyone other than authorized personnel of the university can utilize the entrance, it is considered a public entrance for purposes of the Act.

4. Can a university use a mix of ASMs for a building, *i.e.* limited access at one entry for employees and metal detectors at other entries for students and the public?

A: Restricted access entry is not the same thing as an ASM entrance. As used in the Personal and Family Protection Act, the term “adequate security measures” is statutorily defined as:

“the use of electronic equipment and personnel at public entrances to detect and restrict the carrying of any weapons into the state or municipal building, including but not limited to, metal detectors, metal detector wands or any other equipment used for similar purposes to ensure that weapons are not permitted to be carried into such building by members of the public.” K.S.A. 2015 Supp. 75-7c20(m)(1).

If individuals other than employees can access a building or area, by key or otherwise, the law would consider the building or area to have public access and thus the university must provide ASMs on all “public” access entrances in order to prohibit concealed carry into the building or area. However, the university can limit access to certain entrances or areas within a building to employees *only*, and in that situation ASMs would not need to be provided at those entrances. If an employee were to carry a lawfully possessed concealed carry handgun into a building that provides ASMs at all public entrances by entering through a restricted access entrance (or into an area that has ASMs at the public entrances), and if such action was in violation of the

university's employee policies, the employee could be disciplined in accordance with the employee policies.

5. Can a university make every classroom building a limited access, e.g. requiring all students to have a card swipe card and then restricting concealed handguns from being brought into such buildings?

A: No, not without also providing ASMs at every public access entrance. Restricted access is not an ASM. If students or other non-employee individuals can access a building or area, by using a key, card swipe or otherwise, the university must provide ASMs on all public access entrances in order to prohibit concealed carry into the building.

6. What are the possibilities for university policies that control concealed carry in specific areas of buildings, as Board policy contemplates, when ASMs must be provided at the public access points of the building? Wouldn't weapons have to be detected and kept out at those access points, rather than at the access points to the restricted areas within the building?

A: The Board policy allows for ASMs at the public access entrances to specific areas of a building OR at the public access entrances to the building itself, depending on where concealed carry is to be prohibited. Subsections 14.d. and 14.i. Thus, in order to prohibit concealed carry in any building in its entirety, ASMs would need to be provided at the public access entrances to that building. In order to prohibit concealed carry in only a particular area of a building, ASMs would only need to be provided at the public access entrances to that area. If the area has only restricted access entrances for use of employees only, ASMs would not appear to be required in order to prohibit concealed carry in that area by university employees.

7. Can state universities prohibit concealed carry in lab or other space in which federal or state regulations prohibit firearms?

A: State universities may prohibit concealed carry in areas in which federal or state regulations prohibit firearms 1) without ASMs provided at public access entrances to those areas IF an applicable federal or state law prohibition preempts K.S.A. 75-7c20 of the Kansas Personal and Family Protection Act, or 2) with ASMs provided at all public access entrances to those areas. To the extent federal or state law restrictions on carrying weapons in certain areas apply to individuals rather than the university itself (for instance, individual licensure provisions), those individuals would be required to comply with those restrictions in those areas even if there are no ASMs provided.

8. In addition to the above, do universities have any legal ability to in any way control the manner or ability to carry concealed handguns in a lab, other than by providing ASMs at all public access entrances to the entire building in which a lab is housed? Same question for child care centers? Counseling/therapy centers?

A: Board policy allows universities to provide ASMs at the public access entrances to lab areas in which carrying a handgun would pose safety concerns due to the types of equipment, material or substances used in the lab. The university would not need to provide ASMs on all public access entrances to the building if concealed carry is to be prohibited only in the lab areas of the building and ASMs are provided at every public access entrance to every area where concealed carry is to be prohibited. The same would be true for child care centers and counseling/therapy centers if concealed carry is to be prohibited based on the nature of the individuals or activities housed in these areas. Additionally, or alternatively if the university is unable to provide ASMs at all the public access entrances to either the building as a whole or the areas within which safety is a concern, the university should provide information to students and others who will have access to these areas of the safety issues involved, giving them adequate notice to allow them to make an informed decision regarding the prudence of carrying a handgun into such areas.

9. Can individual instructors create or enforce rules prohibiting concealed carry in their classrooms, labs, or offices to which they are solely assigned?

A: No, an individual instructor cannot prohibit concealed carry in the instructor's classroom, lab, or "private" office unless ASMs are provided on all public access entrances to the classroom, lab, office, or entire building in which these areas are located. However, if it is consistent with university policies on maintaining office hours, etc., an individual instructor may choose to lock the office to which that instructor is solely assigned and not allow anyone else (including students) to enter that office, thereby making it a non-public area. This option would generally not be possible with classrooms or labs because students would need to be able to access those areas.

10. Can a building on campus be considered "privately leased" and thus outside the definition of "state building" if it is rented for just a day or two by a private entity, such as for a conference? What if it is rented by a local school district for the day?

A: K.S.A. 2015 Supp. 75-7c20 requires state universities to allow concealed carry in all "state buildings" except to the extent there are ASMs in place at all public access entrances to a particular building or buildings. For purposes of this statute, the term "state building" is defined as "a building owned or leased by such public entity" but it does not include "a building owned by the state or municipality which is leased by a private entity whether for profit or not-for-profit." K.S.A. 2015 Supp. 7c20(m)(5)(a). So, if a private entity leases a state university building for an event, it appears that the

provisions of K.S.A. 2015 Supp. 75-7c20 requiring the university to either allow concealed carry or provide ASMs for that building would not apply for the term of that lease. Whether a particular entity would be considered a “private entity” for purposes of this statute, or whether there is some other statute that applies specifically to those entities or events is beyond the scope of this response and may be something that the universities and their lessees will need to determine for specific events. If this definitional exception does not apply (either because the entity is not a “private entity” or is not actually leasing the facility), there is still the option of providing ASMs, and the Board has determined that such adequate security can be temporary in nature and can be placed at public access entrances to a particular area and not the entire building if that is appropriate under the circumstances.

11. Do universities have the ability to prohibit concealed carry for university employees the same as other people, even if the employees have access to restricted areas? In other words, if a university has buildings where ASMs are provided, can they prohibit concealed carry for and "disarm" employees in the same manner as they would other people? Do universities have greater authority to restrict the conduct of their own employees with regard to concealed carry, as compared to other people, through employment policies? For example, suppose a university has ASMs in the form of security personnel and metal detectors at all public access entrances to a building, and bans all concealed carry in that building, within a building there is a secure area with access restricted (via key card) to authorized personnel, but an employee with a key card to the restricted area arrives at the public entrance and is found to have a lawfully possessed concealed handgun. Can a university "disarm" that employee at the public access entrance, or must the employee be allowed to enter the building (and the restricted area) still carrying their handgun?

A: Board policy does not speak directly to this issue. However, K.S.A. 2015 Supp. 75-7c20(c) states that a government employer cannot prohibit its employees from carrying concealed handguns in the work place unless the building that workplace is in has ASMs and is properly posted. K.S.A. 2015 Supp. 75-7c20(d), read together with the definition of “restricted access entrance” in K.S.A. 2015 Supp. 75-7c20(m)(3), states that it is not a violation of the Personal and Family Protection Act for a person to carry a lawfully possessed concealed handgun into a building that has ASMs and is properly posted *if that person is authorized to enter the building via a restricted access entrance*. Because of the arguably conflicting statutory language, statutory construction rules dictate that both be read together and be given meaning to the extent possible, and that more specific provisions be given deference over more general provisions. Reading these subsections together, and because subsection (c) speaks specifically to employees and subsection (d) does not, the statute seems to provide that a state agency employer *can prohibit* its employees from carrying concealed handguns into the employees’ workplace by providing ASMs at all public entrances and properly posting, but employees who violate the state agency’s policy in this regard cannot be prosecuted for a violation of the PFP. Rather, any penalty

would be whatever would normally apply to employee violations of employee policies. Thus the answer to the initial question is yes, a university may prohibit its employees from carrying concealed handguns into a building by providing ASMs for every public access entrance to that building. Employees who enter the building through one of the public access entrances would be screened just the same as anyone else. This would be true even if the employee has authorized access to a restricted access area within the building. If rather than the entire building having ASMs at all public access entrances, a particular area or room has been cordoned off and ASMs are in place at any and all of the public entrances of that area/room (ASMs are not required at restricted access entrances, as stated in 6 above) and it is posted, then an employee can be precluded from carrying a concealed handgun into that area/room. Again, violations of such a policy would not be considered violations of the PFPA.

12. 75-7c10 (b)(1), which is part of the Personal and Family Protection Act,” states:

“Nothing in this act shall be construed to prevent: (1) Any public or private employer from restricting or prohibiting by personnel policies persons licensed under this act from carrying a concealed handgun while on the premises of the employer’s business or while engaged in the duties of the person’s employment by the employer, except that no employer may prohibit possession of a handgun in a private means of conveyance, even if parked on the employer’s premises...”

Would the superseding nature of this language concerning the entire act allow a concealed carry prohibition in the described circumstances in spite of any other provisions in the act, including 75-7c20?

A: K.S.A. 2015 Supp. 75-7c10(b)(1) must be read in conjunction with K.S.A. 2015 Supp. 75-7c20(c), which specifically prohibits state agencies from prohibiting an employee from carrying a concealed handgun at the employee’s work place unless the building has ASMs at all public entrances. Additionally, K.S.A. 2015 Supp. 75-7c10 specifically makes its provisions subject to those of K.S.A. 75-7c20, so the latter would trump the former, both because of this provision and because it is the more recent and the more specific enactment. If the building has no public entrances, or an area within the building has no public entrances, it appears that the university may prohibit concealed carry by its employees in that building or area without providing any ASMs. Depending on the employee’s job, it may be possible to restrict the carrying of a concealed handgun while engaged in job duties that are conducted outside of campus buildings as long as the restrictions are reasonable and related to the job the person is doing.

13. Can universities impose various conditions, restrictions and regulations on concealed carrying in university buildings and by university employees, such as requiring periodic registration of all handguns and owners' names with campus police, requiring certain training, etc.?

A: A university may not require registration of lawfully possessed concealed carry handguns and may not require certain training, as both would be counter to the legislative action to do away with state permit and training requirements. However, universities may certainly make registration and/or training a *voluntary* option for individuals who want the campus police department to know they are carrying and/or who want training. Additionally, the university may suggest/encourage/offer such training and make it readily available to people.

14. In the Board policy, what is meant by “*shall at all times have that handgun in their custody and control, and shall either keep it on their person...*” How does this apply to handguns in backpacks, purses, etc.? Must concealed carry holders keep that bag on them at all times in the classroom, lab, or office? Can people pull the handgun into view in order to transfer it into a holster or pocket if they are stepping away from their backpack? What rules can the institution put into place concerning such handling of handguns while in buildings/areas that allow concealed carry? These issues will arise in labs where there are all kinds of safety rules regarding eye protection, fire hazards, chemical spills, high-pressure gas tanks, hazardous fumes and liquids, etc. Food and drink (and sometimes cell phones and other items) are not allowed in such areas and students are instructed to leave their backpacks in a pile in the corner. In some labs, keeping backpacks at their feet will be allowed; in others not -- due to safety reasons. There may then be the problem of having to remove handguns from backpacks and transferring them to pockets or holsters to keep the handgun in the person's custody and control.

A: The intent of the Board policy (subsection 14.h.) is not to necessarily require the concealed carry handgun be always attached to the person who lawfully possess it, but certainly to require that at all times (when not properly stored) the handgun be in that person's custody and control. Having a concealed carry handgun in a backpack or purse at the lawful possessor's feet would be considered as in that person's custody and control; leaving the handgun in a backpack or purse on the other side of the room from the lawful possessor or out of that person's reach would not. To address the concern of individuals having to transfer a concealed carry handgun from a backpack or purse to their person, for those instances where class rules dictate that all purses and backpacks have to be left unattended, university policies may require that the individual who wants to carry a concealed carry handgun in that class have it on their person instead of in their bag before they get to the class. Prior actual or constructive notice of such rules must be given.

15. What responsibility does an individual lawfully carrying a concealed handgun on campus have to keep his/her weapon absolutely concealed? Are they violating the Board policy if someone gets a glimpse of their handgun?

A: An individual who chooses to lawfully carry a concealed handgun on a state university campus must take reasonable measures to conceal the handgun. A person taking a handgun out of concealment or otherwise displaying/brandishing it, would be violating Board policy. Inadvertent brief displays of an individual's concealed carry handgun will need to be addressed on a case-by-case basis; for example, if, one time, a person's coat opens in the act of raising his or her arm to ask a question and a handgun can be seen, it is not a violation. However, if a handgun is seen on university property, even due to an inadvertent brief display, law enforcement may be called to verify whether the handgun holder is lawfully in possession of that weapon.

16. Can universities have rules about how handguns are carried, such as in a holster with the trigger and trigger guard area covered, and with sufficient tension on the handgun to retain it in the holster even when subjected to unexpected jostling (see UT Austin recommendations)?

A: The Board policy requires that an individual who lawfully possesses a concealed carry handgun on campus shall at all times, when carrying the handgun and to the extent it has one, have the safety mechanism engaged.

17. Can universities have rules about the type or amount of ammunition that can be carried in concealed handguns?

A: Universities may not prohibit possession of all ammunition by an individual who lawfully possesses a concealed carry handgun, but may be able to restrict ammunition possessed to that which is used in the concealed carry handgun the individual lawfully possesses. By state law, it is illegal to possess any cartridge which can be fired by a handgun and which has a plastic-coated bullet with a core of less than 60% lead by weight. K.S.A. 21-6301(a)(6).

18. Can a university, or can individual instructors or supervisors, require concealed carry holders to declare themselves?

A: No.

19. Can an appointing authority or supervisor request a list of employees who have received a concealed carry permit?

A: No. This information is not a matter of public record.

20. Can university housing applicants request a match with a roommate who does not intend to (or pledges not to) possess handguns in the shared housing area (such as the dorm room or apartment)? How would/should the question on the application/student questionnaire be phrased?

A: Universities should not ask housing applicants whether they intend to carry a concealed handgun on campus. However, a university may attempt to appropriately match roommates by making a statement such as the following: Note: If you do not want to live with a concealed handgun holder, please alert the housing system office and we will accommodate a room assignment or change.

21. Does the term “abode” in the exception to over 21 years of age provision of K.S.A. 21-6302(a)(4) include residence halls, which would allow anyone living in a residence hall to carry a concealed handgun?

A: No. K.S.A. 2015 Supp. 75-7c20 requires government entities to allow only concealed carry in public buildings. Concealed carry is limited to individuals 21 years of age or older.

22. How does the Board policy apply to long guns?

A: Long guns, such as rifles and shotguns, are included in the definition of “weapons” in paragraph (2) of subsection 14.b. of the Board policy. Long guns are not required to be allowed by K.S.A. 2015 Supp. 75-7c20 (which only applies to concealed carry handguns) or any other statute. Thus, the Board policy would continue to prohibit long guns anywhere on campus, whether concealed or open.

23. Open carry can (and must) be prohibited by each university on campus open grounds as well as in buildings (which must be posted properly), but can a university only discipline, deny access, and remove people for open carry on open grounds or also within posted buildings? Or can people be prosecuted for open carry?

A: K.S.A. 2015 Supp. 75-7c24, the statute that allows prohibition of open carry in buildings, states:

“(c) . . . Any person who violates this section shall not be subject to a criminal penalty but may be subject to denial to such premises or removal from such premises.”

The statute does not make openly carrying a firearm into a properly posted building a crime.

Cities and counties are precluded by K.S.A. 2015 Supp. 12-16,124, from adopting or enforcing any ordinance, resolution or regulations governing the ownership, storage, carrying or transporting of any firearms or ammunition, and thus may not regulate or ban open carry. Any previously adopted ordinance, resolution or regulation of this nature became void on July 1, 2015 and is unenforceable.

Thus, if a university prohibits open carry, on the grounds on in a building, violation of that prohibition would be treated as a policy violation just like any other student, employee, or campus guest conduct matter, punishable by whatever means the university has available to it for that purpose. Responses in situations involving open carry should be reasonable and based upon the circumstances of each situation.

24. Would high school events held on a university campus need to print additional information on the tickets if the facility were going to be secured and concealed carry would not be allowed at the event? (The tickets are ordered in mass and in advance for most high school events.)

A: Subsection 14.k. of the Board’s policy does not require anything of high schools directly; this policy requirement is aimed at the state universities. However, if a state university is hosting a high school event in a state building and concealed carry will not be allowed in the building used for that event because adequate security measures will be in place, then the university would likely need to make arrangements with the high school or KSHSAA to have the tickets so reflect. The purpose of this requirement is to give attendees advance notice, before they show up at the event with a handgun that they will not be able to bring in, thus encouraging them to leave the handgun at home or in an appropriate secured place. Again, this is an issue that state universities may need to work out as they develop their policies and procedures and negotiate with their various tenants or other users of campus facilities.

Other points about the Board's policy:

- The Board policy was developed in response to a state law that was enacted in 2013, but for which state universities have taken advantage of an allowed exemption until July 1, 2017
- The Board is not attempting to accelerate the application of that law, but is preparing for implementation of it on July 1, 2017 assuming there will be no change to the law
- The law does not require the Board or universities to allow open (visible) carry of firearms or other weapons, and that continues to be prohibited under the Board's policy
- The law does not require the Board or universities to allow concealed carry of any weapon other than a handgun, and that continues under the Board's policy
- The law allows the Board and universities to prohibit concealed carry by providing adequate security measures, as defined in the law, and the Board's policy allows each university to determine which buildings, or areas of buildings, should have those adequate security measures
- The Board policy prohibits "brandishing" any otherwise lawfully possessed handgun
- The Board policy makes it a violation of Board policy (as well as it being a violation of state law) to commit a statutory offense involving a firearm (even one that is otherwise lawfully possessed), including, generally, discharge within city limits, discharge toward an occupied building, possession while intoxicated, etc.
- The law does not require the university to be responsible for any lawfully possessed handguns that are carried on campus, and the Board policy places responsibility for control and safe storage on the individual in lawful possession
- The Board policy requires each university to develop and implement policies and procedures for the safe possession and storage of lawfully possessed handguns, for reporting of any suspected violations of the policy, for how faculty, staff and students will be notified of the laws and policies pertaining to concealed carry on campus, and to provide interested faculty, staff and students with information about any known locally or regionally available firearm safety instruction.