



KANSAS BOARD OF REGENTS

**House Committee on Federal and State Affairs
March 9, 2017
House Bill No. 2220**

**Zoe F. Newton, Chairman
Kansas Board of Regents**

Good morning Chairman Barker and Members of the Committee. As the Chairman of the Kansas Board of Regents, I am submitting this testimony in opposition to House Bill 2220.

As introduced, this bill removes the Board's authority to craft policies aimed at implementing constitutional concealed carry on state university campuses. As you know, the Board of Regents is a constitutional entity created to control and supervise the state universities. The Board has long had policies aimed at protecting the health and welfare of our state university students, faculty, and staff. These policies are tailored to the academic environment, taking into account the average age of our students, the needs of our faculty and staff, and the fact that many of our students not only attend classes on our campuses, they live there as well. It would be extraordinary if the Board were to be prohibited from developing such policies – the development of which is an essential element of fulfilling our fiduciary duties to the state universities and our responsibility to all on our campuses.

I would like to emphasize that our objection is not about loss of constitutional authority, although that is what this legislation would do. At bottom, our objection is rooted in a sincere belief that governance is best when it emanates as closely as possible from the people and institutions being governed.

The Board has established, on-going communications with the institutions. The Board visits the campuses regularly, we meet with the presidents monthly, and we also hear from faculty, staff, and student body representatives monthly. This on-going communication keeps the Board apprised of issues peculiar to each institution and ensures that the Board can be nimble and responsive to their needs. Most importantly, we are in the best position to ensure that there is consistency in the overall approach to concealed carry on all campuses; and that approach is one of respect for the rights of lawful gun owners.

Our six universities are very different, and one size does not fit all. For instance, during the process of crafting our policies on concealed carry, one university indicated that there were employees who wanted to carry concealed but in some situations wanted to be able to leave their personal firearm in a secure place on campus when they went into a sensitive setting, like a lab. Another institution had an area where large magnets are in use and bringing a firearm into such an

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environment would be a safety hazard. And yet other institutions house facilities or are engaged in work subject to federal laws and regulations. Being aware of these issues led the Board to craft policies that took these nuances into consideration but also permitted us to narrowly tailor the policies to minimize any impact on concealed carry. The Board's awareness of and responsiveness to the diversity of issues on each of our campuses is, respectfully, not easily addressed by the Legislature.

The Board's approach was minimalistic – in other words, we declined to draft policies that were not necessary and made sure the policies we did draft were narrowly tailored to the unique circumstances of college campuses. For instance, the portion of the policy that requires semi-automatic carriers not to carry a round in the chamber is intended to prevent accidental discharge. State law does not address the concern of accidental discharge. A portion of the policy also requires that each handgun be either carried concealed on the individual's person or concealed in a backpack, purse, or other container that is continuously in the individual's custody (i.e. within their reach) when not securely stored. This requirement undercuts neither the letter nor the spirit of the law because ready access to a firearm is a condition precedent to self-defense using the firearm. Further, this policy lessens the chance that a lawful firearm will be lost, stolen, or used by someone other than a lawful possessor.

The Board's policies do not permit campus authorities to infringe upon the rights of gun owners. For instance, campus authorities are not permitted to ask whether an individual intends to carry concealed, nor are they permitted to ask whether an individual is currently carrying concealed, except as necessary to implement adequate security measures or other *bona fide* law enforcement functions. The Board's policies are designed to set reasonable standards that do not infringe on the right to carry concealed but instead attempt to ensure that the transition to concealed carry on campus will be as seamless as possible.

Concealed carry will be permitted in all but a few places on campuses. The Board has limited the use of adequate security measures to those areas that have specific and unique safety concerns or that are subject to federal laws or regulations that prohibit firearms. The Board will not permit the exception to swallow the rule on this important issue.

The Board's policy was finalized and published on January 20, 2016,¹ after seeking and considering feedback from numerous campus and off-campus constituencies. The Board sought opinions from the Attorney General's office and worked with legislators and gun-rights advocates throughout the process to ensure that its policies would not infringe upon the rights of lawful gun owners. The Board has actively overseen the development of the university specific policies for the same reason.

House Bill 2220 would nullify policies that the Board already has in place, policies that the universities have, in good faith, relied upon in crafting their own individual policies. In turn, many other sectors on our campuses have relied upon these policies as they affect everything from housing contracts to child-care centers on campus. Many of these secondary reliances are time

¹ Other materials have been developed by the Board to assist interested individuals to understand the Personal and Family Protection Act and how it will apply on state university campuses. Some of those materials are attached to this testimony.

sensitive. For example, some housing contracts for the upcoming school year have already been drafted and sent out. It would be tremendously disruptive to reverse the policy at this juncture, considering the time to deal with any unintended consequences is so short.

The Board has exercised its constitutional and statutory authority in a judicious manner with respect for and consistent with the rule of law. We respectfully request that the Legislature permit the Board to continue performing one of its core functions – to enact policies in the best interests of our institutions.

On behalf of my fellow Board members, I thank the members of the Committee for this opportunity to provide information regarding the Board's policy.



KANSAS BOARD OF REGENTS

Amending the Policy on Weapons Possession at State Universities in Kansas FACT SHEET

October 2015

Signs posted at exterior entrances to state university buildings articulate current state law:

On and after July 1, 2013, persons licensedⁱ to carry concealed handguns under the Personal and Family Protection Act are prohibited from carrying concealed handguns within this state or municipal building because either a temporary exemption or adequate security measures are in place pursuant to K.S.A. 2013 Supp. 75-7c20.

In June 2013, the Kansas Board of Regents exercised an option outlined in this statute to activate a temporary exemption from its requirements. This resulted in each of the six state universities being exempt from the statute for four years, the maximum allowed. By law, the exemption **expires on July 1, 2017**. [K.S.A. 75-7c20(j)(5)]

Effective July 1, 2014, state law was enacted to require posting signs in order to prohibit the open carry of firearms in buildings. **That law does not remove the Board of Regents' authority to continue to prohibit the open carry of firearms on university campuses**, in buildings and all other areas, provided the required signage is posted at all exterior entrances of each building. [K.S.A. 75-7c24]

Under current state lawⁱⁱ it is a crime for certain individuals to possess a **concealed handgun**:

- any person under the age of 21, except on one's own land, home or fixed place of business [K.S.A. 21-6302(a)(4)]

Under current state law it is a crime for certain individuals to possess any firearm, or to possess certain firearms under certain circumstances, **whether or not concealed**:

- any person under the influence of alcohol or drugs, or both, to such a degree as to render such person incapable of safely operating a firearm [K.S.A. 21-6332]
- any person under the age of 18, any firearm with a barrel less than 12 inches in length, except in very limited circumstances [K.S.A. 21-6301(a)(14)]
- any person who is both addicted to and an unlawful user of a controlled substance [K.S.A. 21-6301(a)(10)]
- any person who is or has been a mentally ill person subject to involuntary commitment [K.S.A. 21-6301(a)(13)]
- any person with an alcohol or substance abuse problem subject to involuntary commitment [K.S.A. 21-6301(a)(13)]
- any convicted felon, as defined by law [K.S.A. 21-6304]

Under current state law, with certain limited exceptions, it is a crime for any person to possess certain types of firearms and ammunition, **whether or not concealed**, or to discharge firearms under certain circumstances:

- any shotgun with a barrel less than 18 inches in length [K.S.A. 21-6301(a)(5)]
- any firearm capable of discharging automatically by single function of the trigger [K.S.A. 21-6301(a)(5)]
- 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)]
- any suppressor or silencer [K.S.A. 21-6301(a)(4)]
- discharging a firearm in the corporate limits of a city or at a dwelling, or at a structure or vehicle in which people are present, unless under specific situations as outlined [K.S.A. 21-6308 and 21-6308a]

The Kansas Personal and Family Protection Act allows for state universities to continue the prohibition of carrying a concealed handgun in any building for which "adequate security measures," as defined by law, and proper signage are in place. Part of the ongoing implementation process of the Board of Regents and state universities will be to identify those buildings and areas of buildings for which these adequate security measures should be installed by July 1, 2017.

ⁱ Please note: An amendment to the Personal and Family Protection Act, passed in 2015, removed the licensure requirement for carrying a concealed handgun in Kansas. However, there are still a number of state law eligibility requirements to lawfully carry a concealed handgun.

ⁱⁱ Current state law as outlined is in effect now and will continue to be in effect on July 1, 2017, unless amended by a future legislature.



KANSAS BOARD OF REGENTS

FREQUENTLY ASKED QUESTIONS about CONCEALED CARRY ON CAMPUS¹

Updated January 2017

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, as amended by L.2016, Ch. 86, Sec. 6. 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.

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:

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.

“...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)(5), as amended by L.2016, Ch. 86, Sec. 6 (emphasis added).

The term “authorized personnel” is defined as:

“employees of a state agency or municipality and any person granted authorization pursuant to subsection (d)(2), who are authorized to enter a state or municipal building through a restricted access entrance.” K.S.A. Supp. 75-7c20(m)(2), as amended by L.2016, Ch. 86, Sec. 6.

“Subsection (d)(2),” referenced in the definition of “authorized personnel,” allows state agencies to authorize persons other than employees to enter a building through a restricted access entrance if those persons have been screened in accordance with that provision.²

Because the definition of “restricted access entrance” 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 armed personnel at public entrances to detect and restrict the carrying of any weapons into the state or municipal building, or any public area thereof, 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 or public area by members of the public.” K.S.A. 2015 Supp. 75-7c20(m)(1), as amended by L.2016, Ch. 86, Sec. 6.

If individuals other than “authorized personnel” can access a building or any public area thereof, 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 into, or areas within, a building to employees and other “authorized personnel” *only*, and in that situation ASMs would not need to be provided at those restricted access entrances. If an employee or other authorized personnel 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, and if such action was in violation of the university’s policies, the individual could be disciplined in accordance with the university policies.

For additional discussion related to restricted areas within a building, see paragraph #6.

² Attorney General Derek Schmidt has clarified that there are two categories of “authorized personnel” under the law: 1) employees, and 2) other individuals who have been authorized by the university to enter through a restricted access entrance, have been issued an identification card by the university, and have executed an affidavit acknowledging certain restrictions on concealed carrying. See Attorney General Opinion 2016-15.

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, a university may not ban concealed carry within an entire building without providing ASMs at every public access entrance into the building. Attorney General Opinion No. 2016-15. Restricted access is not an ASM. If individuals other than “authorized personnel” can access a building, by using a key, card swipe or otherwise, the university must provide ASMs on all public access entrances into the building in order to prohibit concealed carry into the building. It is not anticipated that every student having a class within a classroom building will be screened as “authorized personnel” so, as a general rule, classroom buildings cannot be made restricted access in their entirety.

For discussion related to restricted areas within a building, see paragraph #6.

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. Alternatively, restricted access entrances may be used to allow entry into certain areas by only employees or other authorized personnel. If an area within a building has only restricted access entrances for use by only “authorized personnel,” ASMs would not appear to be required in order to prohibit concealed carry in that area by those “authorized personnel.” The university will have to consider the appropriateness and feasibility of establishing restricted access entrances, which would depend on the number of people who require access, the need for restricting access based on how the area of the building is used, and other issues.

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 (see K.S.A. 2015 Supp. 75-7c10(i), as amended by L.2016, Ch. 86, Sec. 5), 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.

For further discussion related to restricted areas within a building, see paragraph #6.

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 and state law allow 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. Restricted access entrances also may be utilized in areas of buildings where the university seeks to restrict concealed carry. 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, or restricted access entrances to areas within the building, 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.

A university's ability to control the manner of carrying a concealed handgun within a building or public areas of a building where concealed carry is not prohibited is addressed in paragraph number 16.

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, as amended by L.2016, Ch. 86, Sec. 6, 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)(7)(A), as amended. 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, as amended, 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), as amended by L.2016, Ch. 86, Sec. 6, 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 "at all public access entrances to ensure that no weapons are permitted to be carried into such building" and is properly posted. K.S.A. 2015 Supp. 75-7c20(d)(1), as amended, read together with the definition of "restricted access entrance" in K.S.A. 2015 Supp. 75-7c20(m)(5), as amended, 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 (or public area thereof) that has ASMs and is properly posted *if that person is authorized to enter the building or area 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 PFP.

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..."³

³ Subsequent to the question being asked and this FAQ's original issuance, this provision of the law was amended to remove the reference to "public" employers. L.2016, Ch. 86., Sec. 5(b)

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) [as it read prior to the 2016 amendments] must be read in conjunction with K.S.A. 2015 Supp. 75-7c20(c), as amended, 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 an area within a building has no public entrances, but instead has only restricted access entrances, it appears that the university may prohibit concealed carry by its employees (and other authorized personnel) in that area without providing any ASMs.

For additional discussion related to restricted areas within a building, see paragraph #6.

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. Though not required by Board policy, university policies may require that the concealed carry handgun be kept securely on the person. 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, unless university policy requires that the backpack or purse be physically on or in the hands of the person carrying it; 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 be considered as in the person's custody and control. 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 (other than to transfer it to secure storage or for self-defense), 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. The Attorney General has confirmed that a state agency, such as a state university, "may create rules governing the manner of carrying a concealed handgun within campus buildings in the absence of a statute removing or limiting its authority to do so. . . consistent with the PFFPA." Attorney General Opinion No. 2016-15. See *also* Attorney General Opinion No. 2016-9.

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

A: The Board has disallowed universities from prohibiting possession of all ammunition by an individual who lawfully possesses a concealed carry handgun, as this would fly in the face of the purpose behind the concealed carry law, which is to allow qualified individuals to protect themselves. K.S.A. 2016 Supp. 75-7c01 *et seq.* However, universities 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, as amended by L.2016, Ch. 86, Sec. 6, 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, as amended by L.2016, Ch. 86, Sec. 6, (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 or 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.