

## 2. Act on Proposed Amendments to the State University Weapons Possession Policy

### Summary and Recommendation

*One of the Board's goals for academic year 2015-2016 is to "develop policy to address concealed carry and open carry laws on state university campuses in Kansas, in advance of the July 1, 2017 expiration of the legal exemption now in place." The Governance Committee directed staff to develop a policy that comports with current Kansas law, with input and feedback from various campus constituencies. That work was conducted in October, November and December. The proposed amendments to Board policy have been reviewed by the Board Governance Committee, which now recommends them for Board approval.*

### Background

The 2013 Kansas Legislature enacted a statute to preclude state and municipal entities from prohibiting eligible individuals from the **concealed carry of handguns** in state and municipal buildings, except those buildings having adequate security measures (as defined by the statute) at all public entrances. The 2013 enactment, codified at K.S.A. 2014 Supp. 75-7c20, allowed the governing body of certain government entities, including the state universities, to exempt buildings from application of the law, allowing a delay in implementation of the new provisions for a period of up to four years. The Kansas Board of Regents, on behalf of the six state universities, acted to exempt all state university buildings for up to the maximum period allowed. This exemption period expires, in accordance with the statute, on July 1, 2017. Accordingly, concealed carry remains prohibited in all university buildings until July 1, 2017 and the proposed Board policy amendments do not alter the established exemption period in any way. Rather, the proposed amendments provide for implementation of K.S.A. 2014 Supp. 75-7c20 once the exemption period expires.

In 2014, the Kansas Legislature enacted K.S.A. 75-7c24, which allows state and municipal entities to prohibit **open carry** (*i.e.* the carrying of an unconcealed firearm) into any building that has signs posted in accordance with legal requirements. Attorney General Opinion No. 2014-06 concludes that at least some public entities (in that case a community college) may also prohibit open carry from other areas on campus. K.S.A. 75-7c24 took effect on July 1, 2014 and all state universities have posted the appropriate signage to prohibit open carry in all buildings and elsewhere on those campuses. The proposed Board policy amendments do not alter that prohibition and, if the proposed policy is adopted by the Board, the prohibition will continue beyond July 1, 2017 unless changed by law.<sup>10</sup>

### Policy

The Board believes it is in the best interests of universities and campus communities to now begin planning for 2017 implementation of the concealed carry law, given the amount of time remaining before the July 1, 2017 statutory expiration date for the Board's exemption of state university buildings from application of the concealed carry law. Should the applicable law be amended between now and July 1, 2017, the Board and universities will certainly make adjustments to accommodate those changes, but in order to give the campuses sufficient time to develop policies, write procedures, train constituencies and otherwise prepare for implementation, amendments to the Board's policy on weapons possession need to be made sooner rather than later.

In developing the Board policy, the Governance Committee invited campus groups to review proposed amendments and provide feedback to the Board office. All six of the state universities, as well as faculty and staff groups on those campuses, submitted written comments and suggestions, all of which were shared with the Board Governance Committee during their consideration of the proposed change in policy. Based on these comments and suggestions a number of changes were made to the originally proposed language.

<sup>10</sup> However, the statutes do require that new signage be posted for buildings within which concealed carry will be allowed but open carry will not. The signs currently in place are for buildings in which both concealed and open carry are prohibited.

While the following version of the proposed policy appears to consist of mostly new language, some of the underscored provisions are not new and are shown as such only because they have been moved from another location within the policy. The definition of the term “weapons” is largely unchanged. The only differences between what is set out below and what is in the current policy are the inclusion of a catch-all category at the end of the definition and a change in paragraph (2) to reflect that the term “weapons,” as used in this policy, encompasses all firearms, including handguns that may be lawfully carried in accordance with the Private and Family Protection Act. Staff also notes that the paragraphs dealing with knives in this definition section will be further reviewed by staff to determine whether changes need to be made to remain consistent with state law. It was decided that the review of knives should be done separately from the review focusing on concealed carry of handguns and open carry of firearms.

Key provisions in the proposed new policy include:

- Weapons in general continue to be prohibited on the state university campuses (the Board has had a no-weapons policy since 2008, and individual universities have had such policies for many years prior to that)
- A new exception to this general rule, which will take effect after July 1, 2017, recognizes the ability of any individual aged 21 or older and who otherwise meets statutory eligibility requirements to carry a concealed handgun except in buildings or areas of buildings where “adequate security measures” have been provided
- Open carry of any firearm anywhere on any state university campus will continue to be prohibited
- Provisions for safe storage of concealed carry handguns when not being carried
- Each state university is required to
  - develop policies and procedures for the safe possession and storage of lawful concealed carry handguns and submit those to the Governance Committee for review
  - determine which buildings and areas of buildings on campus should provide for “adequate security measures” and submit a listing of those buildings/areas for Governance Committee review
  - notify students, faculty and staff of the Board policy through means of university policies and housing contracts and, where applicable, on tickets to events

## 14 WEAPONS POSSESSION

- a ~~To the extent allowed by law and except as otherwise provided herein, the campus of each state university shall be weapons free. Each entrance to each building and facility on each campus shall be posted in accordance with K.S.A. 2007 Supp. 75-7e10, 75-7e11, K.A.R. 16-11-7, K.S.A. 21-6309 and K.A.R. 1-49-11, and amendments thereto. Additional signs may be posted as appropriate. Notice of this policy shall also be given in each state university's student code of conduct, housing contracts and employee policies. Pursuant to the authority vested in the Board of Regents by Article 6, Section 2 of the Kansas Constitution, K.S.A. 76-712 and other state laws, and in accordance with K.S.A. 75-7c20 allowing concealed carry and K.S.A. 75-7c24 authorizing prohibition of open carry, concealed carry of handguns shall be permitted on each state university campus, while open carry of firearms and possession of weapons other than concealed handguns shall be prohibited on each state university campus.~~
- b For purposes of this policy:
- i. The term "weapons" includes:
- (1) Any object or device which will, is designed to, or may be readily converted to expel bullet, shot or shell by the action of an explosive or other propellant;
  - (2) any handgun, pistol, revolver, rifle, shotgun or other firearm of any nature, including those that are concealed or openly carried;
  - (3) any BB gun, pellet gun, air/C'O2 gun, stun gun or blow gun;
  - (4) any explosive, incendiary or poison gas (A) bomb, (B) mine, (C) grenade, (D) rocket having a propellant charge of more than four ounces, or (E) missile having an explosive or incendiary charge of more than ¼ ounce;
  - (5) any incendiary or explosive material, liquid, solid or mixture equipped with a fuse, wick or other detonating device;
  - (6) any tear gas bomb or smoke bomb; however, personal self-defense items containing mace or pepper spray shall not be deemed to be a weapon for the purposes of this policy;
  - (7) any knife, commonly referred to as a switch-blade, which has a blade that opens automatically by hand pressure applied to a button, spring or other device in the handle of the knife, or any knife having a blade that opens or falls or is ejected into position by the force of gravity or by an outward, downward or centrifugal thrust or movement;
  - (8) any straight-blade knife of four inches or more such as a dagger, dirk, dangerous knife or stiletto; except that an ordinary pocket knife or culinary knife designed for and used solely in the preparation or service of food shall not be construed to be a weapon for the purposes of this policy;
  - (9) any martial arts weapon such as nunchucks or throwing stars;
  - (10) any longbow, crossbow and arrows or other projectile that could cause serious harm to any person; or
  - (11) any other dangerous or deadly weapon or instrument of like character.
- ii The term "handgun" means:
- (1) A pistol or revolver which is designed to be fired by the use of a single hand and which is 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.
  - iii The term “firearm” includes any handgun, rifle, shotgun, and any other weapon which will or is designed to expel a projectile by the action of an explosive.
  - iv The term “adequate security measures” shall have the same meaning as the term is defined in K.S.A. 75-7c20, and “building” shall have the same meaning as the term “state building” is defined in K.S.A. 75-7c20.
  - v The term “campus” means any building or grounds owned by a state university or the Board and any building or grounds leased by a state university or the Board for state university use.
- c. Nothing in this ~~section~~ policy shall be read to prohibit possession of weapons on campus (1) as necessary for the conduct of Board approved academic programs or university approved activities or practices, or (2) by university police or security officers while acting within the scope of their employment. Each university shall develop and follow policies and procedures for the safe possession, use and storage of such weapons and shall notify the Board in writing of any activities or practices involving weapons that are approved by the university under subparagraph c(1) of this subsection 14.b.
- d. Beginning July 1, 2017, any individual who is 21 years of age or older and who is lawfully eligible to carry a concealed handgun in Kansas shall not be precluded from doing so on state university campuses except in buildings and areas of buildings for which adequate security measures are provided, and except as otherwise prohibited by law.
  - i Each individual who lawfully possesses a handgun on any state university campus shall be wholly and solely responsible for carrying, storing and using that handgun in a safe manner and in accordance with the law, Board policy and university policy. Nothing in this policy shall be interpreted to require individuals who lawfully possess a handgun to use it in defense of others.
  - ii Each university shall develop and follow policies and procedures for the safe possession and storage of lawfully possessed handguns, and shall submit such policies and procedures to the Board office for review and approval by the Board’s Governance Committee prior to publication or implementation. Each university’s policies and procedures shall include detailed provisions regarding how and where to report suspected violations of this policy, how faculty, staff and students shall be notified of the laws and policies pertaining to concealed carry on campus, and shall also provide interested students, faculty and staff with information about any known locally or regionally available firearm safety instruction.
- e-e. Open carry of any firearm anywhere on any campus shall be prohibited. Each entrance to each building and facility on each campus shall be conspicuously posted with appropriate signs indicating that openly carrying a firearm into that building or facility is prohibited. Additional signs may be posted as appropriate.
- f. Except in those instances where necessary for self-defense or transferring to safe storage and except as otherwise provided in subparagraphs c(1) and c(2), it shall be a violation of Board policy to openly display any lawfully possessed concealed carry handgun while on campus.
- g. Regardless whether the individual is otherwise lawfully eligible to carry a concealed handgun, it shall be a violation of Board policy to commit any of the following offenses on a university campus:
  - i. Possess a firearm under the influence of alcohol or drugs, as defined by K.S.A. 21-6332, and amendments thereto;
  - ii. discharge a firearm in violation of K.S.A. 21-6308, and amendments thereto;
  - iii. discharge a firearm within or into the corporate limits of any city in violation of K.S.A. 21-6308a; or
  - iv. otherwise possess, store, transport, trade, sell, or in any other way use a firearm in violation of any applicable law.

- h. Beginning July 1, 2017, each individual who lawfully possesses a concealed handgun on campus shall at all times have that handgun in their custody and control, and shall either keep it on their person with safety mechanism, if any, engaged, or stored 1) in any secure storage location provided by the university specifically for that purpose, 2) at their residence, or 3) in their vehicle. If stored in a vehicle on campus, the handgun must be secured and concealed from view. For any dormitory or scholarship hall that does not have adequate security measures, each resident who lawfully possesses a handgun on campus and elects to store the handgun they possess in the room to which they are assigned when not carrying it on their person in a concealed fashion shall secure the handgun in a secure storage device that conceals the gun from view. Such storage devices shall be provided by the individual who possesses the handgun and must meet minimum industry standards for safe-keeping of handguns.
  
- i. Beginning July 1, 2017, each state university shall determine whether and to what extent otherwise lawfully possessed concealed handguns will be prohibited in any campus buildings or areas of buildings by provision of adequate security measures, permanent or temporary, at each public entrance to the building or area. Each entrance to each building where concealed carry is prohibited as provided in this paragraph shall be conspicuously posted with appropriate signs indicating that carrying a concealed handgun into that building is prohibited. Additional signs may be posted as appropriate. Each state university that prohibits concealed carry pursuant to this paragraph shall submit to the Board office for review and approval by the Board's Governance Committee a list of the buildings and areas of buildings so restricted, the rationale therefor, and a description of the adequate security measures to be provided.
  - i. The list shall be provided at the time such buildings and areas are first identified as requiring adequate security and, as buildings or areas of buildings are added to the list, at the time so amended. Once the Governance Committee has approved a building or area for provision of adequate security measures, re-approval of that building or area is not required.
  
  - ii. Because safety and security considerations may warrant a university implementing adequate security measures on an as-needed, temporary basis that are intended to address a specific concern, each university shall include in its annual security report to the Board information regarding all instances in which adequate security measures were implemented on an as needed, temporary basis during the previous year and the reasons therefor.
  
- j. Any individual who violates one or more provisions of this policy may be issued a lawful directive to leave campus with the weapon immediately. Any individual who violates the directive shall be considered to be in trespass and may be cited accordingly. Any employee or student of the university who violates one or more provisions of this policy shall be subject to discipline in accordance with applicable university codes of conduct. Any individual who violates state or federal law may be detained, arrested or otherwise subjected to lawful processes appropriate to the circumstances.
  - (a) ~~For the purpose of this policy, "weapons" means:~~
    - i. ~~Any object or device which will, is designed to, or may be readily converted to expel bullet, shot or shell by the action of an explosive or other propellant;~~
  
    - ii. ~~any handgun, pistol, revolver, rifle, shotgun or other firearm of any nature, including concealed weapons licensed pursuant to the Personal and Family Protection Act, and amendments thereto;~~
  
    - iii. ~~any BB gun, pellet gun, air/C'O2 gun, stun gun or blow gun;~~
  
    - iv. ~~any explosive, incendiary or poison gas (A) bomb, (B) mine, (C) grenade, (D) rocket having a propellant charge of more than four ounces, or (E) missile having an explosive or incendiary charge of more than ¼ ounce;~~
  
    - v. ~~any incendiary or explosive material, liquid, solid or mixture equipped with a fuse, wick or other detonating device;~~

- ~~vi— any tear gas bomb or smoke bomb; however, personal self-defense items containing mace or pepper spray shall not be deemed to be a weapon for the purposes of this policy;~~
  - ~~vii— any knife, commonly referred to as a switch blade, which has a blade that opens automatically by hand pressure applied to a button, spring or other device in the handle of the knife, or any knife having a blade that opens or falls or is ejected into position by the force of gravity or by an outward, downward or centrifugal thrust or movement;~~
  - ~~viii— any straight blade knife of four inches or more such as a dagger, dirk, dangerous knife or stiletto; except that an ordinary pocket knife or culinary knife designed for and used solely in the preparation or service of food shall not be construed to be a weapon for the purposes of this policy;~~
  - ~~ix— any martial arts weapon such as nunchucks or throwing stars; or~~
  - ~~x— any longbow, crossbow and arrows or other projectile that could cause serious harm to any person.~~
- k. Notice of this policy shall be given in each state university’s weapons policy and housing contracts. To the extent adequate security measures are used to prohibit concealed carry into stadiums, arenas and other large venues that require tickets for admission, the tickets shall state that concealed carry will be prohibited at that event.

**Recommendation**

The proposed amendments were reviewed by the Board Governance Committee and that Committee recommends approval.