



KANSAS BOARD OF REGENTS

March 14, 2017

The Honorable John Barker
Chairman, House Committee on Federal and State Affairs
Kansas State Capitol
300 SW 10th Avenue, Suite 285-N
Topeka, KS 66612

Dear Chairman Barker:

On behalf of the members of the Board of Regents, I want to take a moment to thank you and the members of the committee for allowing us the opportunity to speak with you regarding HB 2220. Below please find information responsive to Representative Carpenter's request for information regarding how infractions of campus weapons policies, which are scheduled to become effective July 1, have been outlined, along with a copy of the Board's policy on Weapons Possession as requested by Representative Miller.

As you know, there is both an overarching policy established by the Board of Regents, which must be followed by all six state universities, as well as individual university-specific policies providing additional guidance. The entire Policy Manual of the Board is available online, and the provision which addresses Weapons Possession is available at the following link: <http://bit.ly/2mEtiGQ>. The Board of Regents adopted its revised policy on Weapons Possession on January 20, 2016, and amended it again in January 2017.

Over the past three years, the Kansas Board of Regents has worked with key Legislators and representatives of the NRA, as well as each campus community, to formulate policies implementing K.S.A. 2016 Supp. 75-7c20. In September 2016, the Board received requested guidance from Attorney General Derek Schmidt addressing two clarifying questions the Board had regarding implementation of this statute. That Attorney General Opinion is also attached here.

Using the Board policy as guidance, each state university went on to craft individual university-specific policies to implement K.S.A. 2016 Supp. 75-7c20, addressing several logistical questions that had been raised throughout policy deliberations, in addition to reiterating the established policy of the Board. The Board Governance Committee carefully reviewed each

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institution's policy, gave directions for amendments, and ultimately approved each in December 2016. The Board and its Governance Committee will review and act on any requests for adequate security measures, moving forward. As of this time, no such requests have been made.

Sincerely,



Zoe Newton

Chair, Kansas Board of Regents

STATE UNIVERSITY WEAPONS POSSESSION POLICIES – PENALTIES

Board Policy Excerpt

Chapter II. Section E.14.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.

Emporia State University – Policy Excerpts

- 11.c. At any time after a report of suspected Weapons Policy violation has been made to Police & Safety and continuing through the date the final determination has been made in the matter, the President may take any temporary action as determined necessary by the President to ensure the safety of the University and of its students and personnel. Such temporary action may include, but is not necessarily limited to: prohibiting an alleged policy violator from carrying a concealed firearm anywhere within the geographic limits of this policy; if a student is the alleged policy violator, temporary suspension from one or more classes in which the student is enrolled, or a change in the student's class schedule, or the placement of restrictions or conditions on the student in order to continue with normal class attendance and participation; if an employee (faculty or staff) is the alleged policy violator, temporary administrative leave with or without pay, or the placement of restrictions or conditions on the employee in order to continue with the employee's normal employment.
12. **Sanctions.** The determination of which sanction(s), if any, that will be imposed following a determination that the Weapons Policy has been violated will be handled on a case by case basis. Notwithstanding the type and nature of sanctions that may be described in University policies, the appropriate sanction for violation of the Weapons Policy can be

anything determined pursuant to the applicable policy as appropriate, including expulsion or termination from the University. The guiding theme when determining the appropriate sanction is to ensure that the Weapons Policy violation will not be repeated and that the safety of University students and personnel is assured.

Fort Hays State University – Policy Excerpts

At any time after a report of suspected Weapons Policy violation has been made to Police and continuing through the date the final determination has been made in the matter, the President may take any temporary action as determined necessary by the President to ensure the safety of the University and of its students and personnel. Such temporary action may include, but is not necessarily limited to: prohibiting an alleged policy violator from carrying a concealed firearm anywhere within the geographic limits of this policy; if a student is the alleged policy violator, temporary suspension from one or more classes in which the student is enrolled, or a change in the student's class schedule, or the placement of restrictions or conditions on the student in order to continue with normal class attendance and participation; if an employee (faculty or staff) is the alleged policy violator, temporary administrative leave with or without pay, or the placement of restrictions or conditions on the employee in order to continue with the employee's normal employment.

Sanctions. The determination of which sanction(s), if any, that will be imposed following a determination that the Weapons Policy has been violated will be handled on a case by case basis. Notwithstanding the type and nature of sanctions that may be described in University policies, the appropriate sanction for violation of the Weapons Policy can be anything determined pursuant to the applicable policy as appropriate, including expulsion or termination from the University. The guiding theme when determining the appropriate sanction is to ensure that the Weapons Policy violation will not be repeated and that the safety of University students and personnel is assured.

Kansas State University – Policy Excerpts

University Police have the authority to disarm and/or temporarily confiscate a firearm and issue a restriction to not carry a concealed firearm on campus pending results of the weapons policy violation determination. The decision whether to confiscate and issue a restriction prohibiting concealed carry will be made by University Police when there is probable cause to believe that a violation of this policy has occurred or continued possession and carrying by the alleged policy violator will create imminent danger to self or others. This authority does not supersede or alter the authority of University Police to confiscate a firearm during a criminal investigation. A confiscated firearm will be stored and handled by University Police according to their policies.

The Threat Management Team, the Critical Incident Response Team (CIRT), or the President may take any temporary action as determined necessary to ensure the safety of the University

and of its students and personnel. Such temporary action may include, but is not necessarily limited to: prohibiting an alleged policy violator from carrying a concealed firearm anywhere within the geographic limits of this policy; if a student is the alleged policy violator, temporary suspension from one or more classes in which the student is enrolled, or a change in the student's class schedule, or the placement of restrictions or conditions on the student in order to continue with normal class attendance and participation; if an employee (faculty or staff) is the alleged policy violator, temporary administrative leave with or without pay, or the placement of restrictions or conditions on the employee in order to continue with the employee's normal employment.

.050 Sanctions 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.

Pittsburg State University – Policy Excerpts

When there is probable cause to believe that a weapons policy violation has occurred, or continued possession and carrying by the alleged policy violator will create imminent danger to self or others, University Police have authority to disarm and/or temporarily confiscate a firearm and issue a restriction to not carry a concealed firearm on campus pending results of the investigation.

The President, or his or her designee, may take any temporary action as determined necessary to ensure the safety of the University and of its students and personnel. 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.

University of Kansas – Policy Excerpt

Violation of Policy 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. University faculty, staff, and students are encouraged to report suspected violations of the concealed carry law and this policy to the appropriate campus threat assessment team, identified in each campus's implementing policy, or by immediate notification to University Police by calling 9-1-1. University officials and or Police will investigate and determine if the display or possession of the firearm is a violation of law or Board of Regents or University policy.

Wichita State University – Policy Excerpt

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 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 individual who violates state or federal law may be detained, arrested or otherwise subjected to lawful processes appropriate to the circumstances.

Excerpts from the Board of Regents FAQ (January 2017)

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.

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.

FROM THE KANSAS BOARD OF REGENTS POLICY MANUAL

Available in its entirety at:

https://kansasregents.org/about/policies-by-laws-missions/board_policy_manual_2

14 WEAPONS POSSESSION

- a 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, or blow gun, or any device, such as a Taser, which is designed to discharge electric darts or other similar projectiles; however, personal self-defense stun guns that do not fit within the preceding definition shall not be deemed to be a weapon for the purposes of this policy;
 - (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 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).
 - 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 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 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 or authorized by the university specifically for that purpose, 2) at their residence, or 3) in their vehicle. If stored in a location provided or authorized by the university specifically for that purpose, the handgun must be secured, concealed from view, and in a location that can be accessed only by the individual and the university. 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 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.
- 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.



STATE OF KANSAS
OFFICE OF THE ATTORNEY GENERAL

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ATTORNEY GENERAL

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September 20, 2016

ATTORNEY GENERAL OPINION NO. 2016-15

Dr. Blake Flanders
President and CEO
Kansas Board of Regents
1000 SW Jackson, Suite 250
Topeka, KS 66612

Re: State Departments; Public Officers and Employees—Firearms—Personal and Family Protection Act; Restrictions on Carrying Concealed Handgun; Concealed Handguns in Public Buildings and Areas; Authorization for Restricted Access Entrances

Synopsis: A state university may not ban concealed carry within a university building by designating the entire building as a restricted access building. The Personal and Family Protection Act (PFPA) only allows employees and persons who obtain authorization pursuant to K.S.A. 2016 Supp. 75-7c20(d)(2)(A) through (C) to enter a state or municipal building through a restricted access entrance without passing through security measures at public entrances. A state university may adopt rules governing the manner in which concealed handguns are carried within university buildings. Cited herein: K.S.A. 2015 Supp. 75-7c20; K.S.A. 2016 Supp. 75-7c01; 75-7c10; 75-7c17; 75-7c20; K.A.R. 16-11-7.

* * *

Dear Dr. Flanders:

As the President and CEO of the Kansas Board of Regents, you ask our opinion on two questions concerning the Personal and Family Protection Act (PFPA),¹ commonly

¹ K.S.A. 2016 Supp. 75-7c01 *et seq.*

known as the Kansas concealed carry law. In particular, you ask about the impact of 2016 House Bill 2502 (HB 2502),² which amended various provisions of the PFPA.

Your questions are as follows:

1. Do Kansas concealed carry laws, including 2016 HB 2502, permit a state university to adopt and enforce a policy of prohibiting concealed carry in a building or area of a building that is considered and treated as restricted access and wherein entry is only permitted to individuals who have been preauthorized to enter such restricted buildings or restricted areas of buildings (such as dorms, labs or class rooms) using a university issued ID card, key, keycode, swipe card, or other similar device? If so, may that prohibition be adopted based upon possession of such security devices such as keys, swipe cards, etc., without requiring that each such individual also go through the pre-screening procedures set forth in 2016 HB 2052(d)(2)(A)-(C)?
2. Do Kansas concealed carry laws, including 2016 HB 2502, permit a state university to adopt and enforce policies designed to promote safety by preventing accidental discharge when carrying concealed? For example, may a university impose a requirement that persons keep their weapons in a holster while carrying concealed, require semiautomatic handguns to be carried without a chambered round of ammunition, require that those carrying a concealed carry revolver do so with the hammer resting on an empty cylinder, require that any safety mechanism existing on the weapon [be] engaged, etc.?

Before we address your questions, we begin with some background on the PFPA. K.S.A. 2016 Supp. 75-7c20(a) and (b) establish the general rules concerning concealed carry inside state buildings or public areas of such buildings:

(a) The carrying of a concealed handgun shall not be prohibited in any public area of any state or municipal building unless such public area has adequate security measures to ensure that no weapons are permitted to be carried into such public area and the public area is conspicuously posted with either permanent or temporary signage approved by the governing body, or the chief administrative officer, if no governing body exists, in accordance with K.S.A. 2015 Supp. 75-7c10, and amendments thereto.

(b) The carrying of a concealed handgun shall not be prohibited throughout any state or municipal building in its entirety unless such building has adequate security measures at all public access entrances to ensure that no weapons are permitted to be carried into such building and

² L. 2016, Ch. 86.

the building is conspicuously posted in accordance with K.S.A. 2015 Supp. 75-7c10, and amendments thereto.

In other words, concealed carry generally must be allowed inside a state or municipal building, or any public area within the building, unless the building provides adequate security measures³ at public entrances and signs are posted indicating that concealed carry is not permitted in the entire building or a public area of the building. State university buildings that are owned or leased by the state university are considered "state or municipal buildings" for the purposes of the PFPA.⁴

The PFPA allows a state university to exempt a university building from the provisions of K.S.A. 2016 Supp. 75-7c20 until July 1, 2017.⁵ During an exemption period, a state university may prohibit concealed carry inside a building simply by posting certain signage at all exterior entrances to the building.⁶ After the exemption period expires, the building is required to comply with K.S.A. 2016 Supp. 75-7c20.

Your first question centers on the 2016 amendments to the PFPA. Prior to the enactment of HB 2502, K.S.A. 2015 Supp. 75-7c20(d) allowed "authorized personnel" to carry a concealed handgun into a state or municipal building with adequate security measures so long as that person entered through a "restricted access entrance."⁷ The term "authorized personnel" was not defined at that time, but "restricted access entrance" was 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."⁸ Under this provision, an employee could bypass security measures at the public entrance to the building and carry a concealed handgun into the building through a restricted access entrance. Adequate security measures are not required to be installed at restricted access entrances.⁹

The first part of your first question asks whether concealed carry may be banned within an entire building, or public area thereof, simply by designating the building or area as "restricted access." In our opinion, the answer is no. As noted above, K.S.A. 2016 Supp. 75-7c20(a) and (b) state that concealed carry may not be banned inside a state or

³ The PFPA defines "adequate security measures" 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. 2016 Supp. 75-7c20(m)(1). Prior to July 1, 2016, security personnel were not required to be armed. See K.S.A. 2015 Supp. 75-7c20(m)(1).

⁴ K.S.A. 2016 Supp. 75-7c20(m)(7)(A) ("State or municipal building" means a building owned or leased by such public entity").

⁵ K.S.A. 2016 Supp. 75-7c20(j)(5).

⁶ K.S.A. 2016 Supp. 75-7c10(a). See also K.A.R. 16-11-7.

⁷ "It shall not be a violation of the [PFPA] for a person to carry a concealed handgun into a state or municipal building so long as that person has authority to enter through a restricted access entrance into such building which provides adequate security measures." K.S.A. 2015 Supp. 75-7c20(d).

⁸ K.S.A. 2015 Supp. 75-7c20(m)(3).

⁹ K.S.A. 2016 Supp. 75-7c20(m)(1).

municipal building, or within in public area of such building, unless adequate security measures are in place at all public entrances and the building or public area is posted as prohibiting concealed carry. The only other means by which concealed carry may be banned within a state or municipal building in its entirety is through the exercise of an exemption period, or if K.S.A. 2016 Supp. 75-7c20 expressly does not apply to the building or portion thereof.¹⁰ Simply designating a building or public area thereof as “restricted access” is not enough to authorize a state agency to prohibit concealed carry within that building or public area and would appear to be squarely contrary to the legislature’s intent.

The second part of your first question concerns the new screening procedure created by HB 2502, which allows a public entity to authorize a person, who is *not* an employee of that public entity, to bypass adequate security measures at public entrances to the building and instead enter through a restricted access entrance. This new language, now found in K.S.A. 2016 Supp. 75-7c20(d), states in relevant part:

(2) Any person, who is not an employee of the state or a municipality and is not otherwise authorized to enter a state or municipal building through a restricted access entrance, shall be authorized to enter through a restricted access entrance, provided such person:

(A) Is authorized by the chief law enforcement officer, governing body, or the chief administrative officer, if no governing body exists, to enter such state or municipal building through a restricted access entrance;

(B) is issued an identification card by the chief law enforcement officer, governing body, or the chief administrative officer, if no governing body exists, which includes such person's photograph, name and any other identifying information deemed necessary by the issuing entity, and which states on the identification card that such person is authorized to enter such building through a restricted access entrance; and

(C) executes an affidavit or other notarized statement that such person acknowledges that certain firearms and weapons may be prohibited in such building and that violating any such regulations may result in the revocation of such person's authority to enter such building through a restricted access entrance. . . .

In the interest of brevity, we will refer to the procedure described in these paragraphs as the “screening process.” A person authorized through this screening process to enter a state or municipal building through a restricted access entrance may avoid security measures otherwise required for public visitors to the building. However, “[s]uch

¹⁰ See K.S.A. 2016 Supp. 75-7c20(g), (h) and (k). Secure areas of a corrections facility, jail facility or law enforcement agency; courtrooms and ancillary courtrooms; and buildings located on the grounds of the Kansas State School for the Deaf and the Kansas State School for the Blind are not required to comply with K.S.A. 2016 Supp. 75-7c20.

authorization does not permit the individual to carry a concealed weapon into a public building, which has adequate security measures . . . and which is conspicuously posted [as prohibiting concealed carry].”¹¹

In addition to creating the new screening process, HB 2502 added a definition of “authorized personnel” to clarify who is eligible to use a restricted access entrance. As noted above, previously that term was not defined by the PFPA. HB 2502 defined “authorized personnel” as follows: “*employees of a state agency . . . and any person granted authorization pursuant to [the screening process], who are authorized to enter a state or municipal building through a restricted access entrance.*”¹²

Your question focuses on the following language of K.S.A. 2016 Supp. 75-7c20(d)(2):

Any person, who is not an employee of the state or a municipality *and is not otherwise authorized* to enter a state or municipal building through a restricted access entrance, shall be authorized to enter through a restricted access entrance, provided such person [is authorized via the screening process].¹³

In your letter, you suggest that the legislature’s inclusion of the phrase “not otherwise authorized” indicates that a person may be authorized to enter through a restricted access entrance even if that person is *not* an employee of the public agency or authorized via the new screening process. In other words, you suggest that HB 2502 created *three* categories of persons who may be authorized to use a restricted access entrance: employees; persons granted authorization under the screening process; and those persons who are “otherwise authorized.” Concerning the third, “otherwise authorized” category of persons, you further ask, “how and by whom may such authorization be conferred?”

To answer your question, we consider the plain language of K.S.A. 2016 Supp. 75-7c20. Our analysis is guided by the rules of statutory interpretation:

The most fundamental rule of statutory construction is that the intent of the legislature governs if that intent can be ascertained. We first attempt to ascertain legislative intent by reading the plain language of the statutes and giving common words their ordinary meanings. When a statute is plain and unambiguous, we do not speculate as to the legislative intent behind it and will not read into the statute something not readily found in it. . . . However, even if the language of the statute is clear, we must still consider various provisions of an act in *pari materia* with a view of reconciling and bringing those provisions into workable harmony if possible. Additionally, we must construe statutes to avoid unreasonable or

¹¹ K.S.A. 2016 Supp. 75-7c20(d)(2).

¹² K.S.A. 2016 Supp. 75-7c20(m)(2) (emphasis added).

¹³ Emphasis added.

absurd results, and we presume the legislature does not intend to enact useless or meaningless legislation.¹⁴

Reading the provisions of K.S.A. 2016 Supp. 75-7c20(d)(2) together with the other provisions of the PFPA, we believe the meaning of “otherwise authorized” is clear. Instead of creating a third category of persons eligible to use a restricted access entrance, we believe it merely refers to persons who have already received authorization under the new screening process. We reach this conclusion for two reasons.

First, the unambiguous definitions of “restricted access entrance” and “authorized personnel” make it clear that for the purposes of the PFPA, only “employees of a state agency . . . and any person granted authorization pursuant to [the screening process]” are eligible to bypass adequate security measures at public entrances to a building. Neither of those definitions expressly refers to, or implies, a third category of “otherwise authorized” persons. To read a third category into those definitions would be to “read into a statute something not readily found in it,” in contravention of the rules of statutory interpretation.¹⁵

Second, creating a third category of persons eligible to bypass security measures, without establishing rules for determining which persons qualify for that category, would be inconsistent with the legislative intent expressed in other provisions of the PFPA. The PFPA includes specific rules limiting the ability of state agencies to restrict or prohibit concealed carry inside a public building. The legislature has defined the types of security measures that must be in place;¹⁶ required security personnel to be armed;¹⁷ defined the types of weapons that such security measures must detect and restrict;¹⁸ established a procedure for a public agency to temporarily exempt a building from the requirements of K.S.A. 2016 Supp. 75-7c20;¹⁹ and prescribed the placement and content of signage that must be in place.²⁰ By doing so, the legislature removed the ability of state agencies to decide those detailed matters for themselves.

An example of this legislative trend is found within K.S.A. 2016 Supp. 75-7c20(d)(2) itself. The legislature could have authorized public agencies to develop their own screening procedures but chose instead to require the uniform process established in subsections (d)(2)(A) through (C) of that statute. Although K.S.A. 2016 Supp. 75-7c20(d)(2) allows a state agency “[to] develop criteria for approval of individuals . . . to enter the state or municipal building through a restricted access entrance,” it also limits the criteria that may be used: “[a]n individual who has been issued a concealed carry

¹⁴ *Northern Natural Gas Co. v. ONEOK Field Services Co.*, 296 Kan. 906, 918 (2013), quoting *Stewart Title of the Midwest v. Reece & Nichols Realtors*, 294 Kan. 553, 564–65 (2012) (internal citations omitted).

¹⁵ *Id.*

¹⁶ K.S.A. 2016 Supp. 75-7c20(m)(1).

¹⁷ K.S.A. 2016 Supp. 75-7c20(m)(1).

¹⁸ K.S.A. 2016 Supp. 75-7c20(m)(8).

¹⁹ K.S.A. 2016 Supp. 75-7c20(i).

²⁰ K.S.A. 2016 Supp. 75-7c10(j).

permit by the state of Kansas shall not be required to submit to another state and national criminal records check before issuance and renewal of such authorization.”

The legislature has also declared the public policy of the state to include ensuring that “no honest, law-abiding person who qualifies under the provisions of [the PFPA] is subjectively or arbitrarily denied the person’s rights.”²¹ In our opinion, reading K.S.A. 2016 Supp. 75-7c20(d)(2) to give public agencies carte blanche to craft their own rules as to who may bypass security measures is inconsistent with that public policy and also ignores the other provisions of the PFPA, which consistently limit the means by which public agencies may restrict concealed carry.

In short, we believe that the provisions of the PFPA, when read together, do not support an interpretation of HB 2502 that would allow a state university to create its own system of authorizing select persons to use a restricted access entrance. If a state university wishes to allow non-employees, such as students, to use a restricted access entrance, the university must require those persons to follow the screening process prescribed by K.S.A. 2016 Supp. 75-7c20(d)(2)(A) through (C).

Your second question asks whether Kansas law permits a state university to adopt rules to govern the manner of carrying a concealed handgun on campus. We believe the answer to this question is yes.

In Attorney General Opinion No. 2016-9 we considered the application of the PFPA to state medical care facilities. In that opinion, we noted:

With respect to state facilities, K.S.A. 2015 Supp. 75-7c20 generally requires concealed carry to be allowed inside a state building unless the building is exempt or provides adequate security measures and signage. But neither the PFPA nor any other provision of law restricts the *state* government from adopting rules to govern the manner of carrying or storing a concealed handgun *once the handgun is inside a state-owned or leased building*.

We therefore believe that under current law, a *state* agency may regulate the carrying or storage of a concealed handgun by patients and other members of the public while inside a state facility. In the absence of a statute to the contrary, we believe the state may require, for example, that concealed handguns carried inside state facilities be holstered or unloaded, or it may prohibit patients from carrying a concealed handgun into an x-ray room. Medical personnel may also require that a patient remove a concealed handgun from his or her person before medications or procedures are provided.

²¹ K.S.A. 2016 Supp. 75-7c17(a).

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We believe the same analysis applies to your second question; the 2016 amendments to the PFPA do not alter our conclusion in Attorney General Opinion No. 2016-9. It is our opinion that 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. However, we would caution that any such rules must be consistent with the PFPA.

Sincerely,

A handwritten signature in black ink that reads "Derek Schmidt". The signature is written in a cursive style with a large initial "D" and a long, sweeping underline.

Derek Schmidt
Attorney General

A handwritten signature in black ink that reads "Sarah Fertig". The signature is written in a cursive style with a large initial "S" and a long, sweeping underline.

Sarah Fertig
Assistant Attorney General

DS:AA:SF:sb