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ATTORNEY GENERAL OPINION NO. 2014- 06

Jeffrey A. Chubb
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304 N. 6th
P.O. Box 747
Independence, KS 67301-0747

Re: Cities and Municipalities—Miscellaneous Provisions—Firearms and Ammunition; Regulation by City or County, Limitations

Cities and Municipalities—Miscellaneous Provisions—Knives and Knife Making Components; Regulation by Municipality, Limitations

Schools—Community Colleges—Organization, Powers and Finances of Boards of Trustees—Boards of Trustees; Powers and Duties

State Departments; Public Officers and Employees—Firearms—Personal and Family Protection Act

Synopsis: The board of trustees of a community college may prohibit the open carry of firearms on campus by any person.

The board of trustees of a community college may restrict or prohibit the concealed carry of handguns inside some or all campus buildings by exercising the exemption found in K.S.A. 2013 Supp. 75-7c20(j)(5), or by providing adequate security measures in a building and posting that building as prohibiting concealed carry. A community college may not ban the carrying of concealed handguns by persons licensed to do so on the grounds of the community college.

The board of trustees of a community college may not enact a new rule prohibiting the carrying of knives as defined in K.S.A. 2013 Supp. 12-16,134(c)(1) on campus or inside campus buildings. If a community

college enacted such a rule prior to July 1, 2013, the community college may continue to enforce that rule.

The board of trustees of a community college and may ban the carrying on campus of weapons other than knives, such as billy clubs or metal knuckles. Cited herein: K.S.A. 2013 Supp. 12-16,124; 12-16,134; 21-5412; 21-6301; 21-6302; 71-201; K.S.A. 71-204; K.S.A. 2013 Supp. 74-3201b; 75-7c01; 75-7c10; 75-7c17; 75-7c20; 75-6102; Kan. Const., Bill of Rights, § 4; U.S. Const., Am. 2.

* * *

Dear Mr. Chubb:

As counsel for the Independence Community College Board of Trustees, you ask whether a community college may lawfully ban weapons from its campus, and in particular whether the a community college may prohibit persons who are not licensed to carry concealed handguns from possessing or carrying weapons while on campus.

Kansas law provides that the board of trustees of a community college “shall have custody of and be responsible for the property of the community college and shall be responsible for the operation, management and control of the college.”¹ Community college trustees are empowered by law to “exercise all other powers not inconsistent with the provisions of law or with the rules and regulations of the state board of regents which may be reasonably necessary or incidental to the establishment, maintenance and operation of a community college.”²

To date, the Kansas Board of Regents has adopted no rule or regulation governing the possession and carrying of weapons on community college campuses.³ Therefore, except to the extent other laws apply, the authority to decide whether to permit or prohibit weapons on a community college campus lies with the community college board of trustees.

¹ K.S.A. 2013 Supp. 71-201(a). See also K.S.A. 74-3202c(c) (“Notwithstanding any of the powers, duties and functions conferred and imposed upon the state board of regents under the Kansas higher education coordination act, the boards of trustees of the community colleges shall continue to have custody of and be responsible for the property of their respective community colleges and shall be responsible for the operation, management and control of such community colleges, except as otherwise expressly provided by law.”).

² K.S.A. 2013 Supp. 71-201(b)(14).

³ See K.A.R. 88-2-1 *et seq.*

Concealed Carry of Handguns

Several Kansas statutes govern the ability of community college trustees to regulate the carrying of weapons on campus. We first consider the Personal and Family Protection Act,⁴ commonly known as the concealed carry law.

The PFPA states in relevant part:

The carrying of a concealed handgun as authorized by the personal and family protection act shall not be prohibited in any state or municipal building unless such building has adequate security measures to ensure that no weapons are permitted to be carried into such building and the building is conspicuously posted in accordance with K.S.A. 75-7c10, and amendments thereto.⁵

The PFPA defines municipality as “any county, township, city . . . or other political or taxing subdivision of the state, or any agency, authority, institution or other instrumentality thereof.”⁶ A community college is a municipality for the purposes of the PFPA because its board of trustees is authorized to levy taxes on property within the community college district,⁷ and because a community college is a political subdivision of the state.⁸ Therefore, the provisions of the PFPA apply to community college buildings unless the community college exercises an exemption as further described below.

A community college has three options with respect to compliance with the PFPA. First, a community college board of trustees may decide to permit concealed carry licensees to carry concealed handguns into all buildings owned by the college. Second, a community college board of trustees may elect to exempt any or all college buildings from the provisions of the PFPA for a four-year period by exercising the exemption in K.S.A. 75-7c20(j)(5).⁹ If such exemption is taken, then the provisions of K.S.A. 2013 Supp. 75-7c10(a) control and the community college may prohibit concealed carry by licensees in buildings covered by the exemption simply by posting the buildings as prohibiting concealed carry.

As a third option, a community college may prohibit concealed carry in certain buildings by providing adequate security measures¹⁰ at the public entrances to those buildings

⁴ K.S.A. 2013 Supp. 75-7c01 *et seq.*

⁵ K.S.A. 2013 Supp. 75-7c20(a).

⁶ K.S.A. 2013 Supp. 75-7c20(l)(2) and 75-6102(b).

⁷ See K.S.A. 71-204.

⁸ See, e.g., Attorney General Opinion No. 2003-8.

⁹ Postsecondary educational institutions may exercise the four-year exemption for any or all buildings owned by such institution. A community college is a postsecondary education institution for the purposes of the PFPA. See K.S.A. 2013 Supp. 74-3201b(e) and 75-7c20(j)(5).

¹⁰ “Adequate security measures” means the use of electronic equipment and personnel at public entrances to detect and restrict the carrying of any weapons into the state or municipal building, including, but not limited to, metal detectors, metal detector wands or any other equipment used for similar

and posting those buildings as prohibiting concealed carry.¹¹ However, it is not a violation of the PFPA for a community college employee to carry a concealed handgun into a building in which adequate security measures are present so long as the employee is licensed under the PFPA and the employee enters through a restricted access entrance.¹²

Your question also concerns a community college prohibiting the carrying of concealed handguns on campus grounds. The PFPA prohibits a city, county or political subdivision from regulating, restricting or prohibiting the carrying of concealed handguns by persons licensed under the PFPA except as provided in K.S.A. 2013 Supp. 21-6309, 75-7c10(b) and 75-7c20.¹³ None of those provisions authorize a community college to ban concealed carry licensees from carrying concealed handguns in outdoor spaces on the grounds of the campus. This means that the board of trustees of a community college lacks authority to ban PFPA licensees from carrying concealed handguns on campus grounds, even if the PFPA allows a community college to restrict or prohibit concealed carry inside campus buildings.

Open Carry of Firearms

With respect to the open carry of firearms, there are no state statutes that restrict the authority of a community college to prohibit open carry on campus, regardless of whether a person is licensed under the PFPA. The only state statute that expressly limits local regulation of open carry is K.S.A. 2013 Supp. 12-16,124, but that statute only applies to cities and counties.¹⁴ In the absence of such a statute, it is our opinion that Kansas law allows the board of trustees of a community college to ban the open carry of firearms on campus and inside campus buildings.

Knives

K.S.A. 2013 Supp. 12-16,134 limits the authority of municipalities to regulate the carrying of knives. As with the PFPA, a community college is a municipality for the purposes of this statute.¹⁵ Subsection (a) of K.S.A. 2013 Supp. 12-16,134 states:

A municipality shall not enact any ordinance, resolution, rule or tax relating to the transportation, possession, carrying, sale, transfer, purchase, gift, devise, licensing, registration or use of a knife or knife making components.

purposes to ensure that weapons are not permitted to be carried into such building by members of the public." K.S.A. 2013 Supp. 75-7c20(l)(1).

¹¹ K.S.A. 2013 Supp. 75-7c20(b).

¹² K.S.A. 2013 Supp. 75-7c20(d).

¹³ K.S.A. 2013 Supp. 75-7c17(a).

¹⁴ "No city or county shall adopt any ordinance, resolution or regulation, and no agent of any city or county shall take any administrative action, governing the purchase, transfer, ownership, storage or transporting of firearms or ammunition, or any component or combination thereof." K.S.A. 2013 Supp. 12-16,124(a) (emphasis added).

¹⁵ See K.S.A. 2013 Supp. 12-16,134(c)(2) and 75-6102(b).

"Knife" is defined as "a cutting instrument and includes a sharpened or pointed blade."¹⁶ This broad definition includes sharpened objects ranging from pocket knives to machetes and swords.¹⁷

K.S.A. 2013 Supp. 12-16,134(a) prohibits a community college from enacting a rule that would ban the carrying of objects that fall within the definition of "knife" on that community college's property. However, as we explained in Attorney General Opinion No. 2014-01, it is our opinion that this statute extinguishes only the authority to enact new rules after July 1, 2013, but does not invalidate any *existing* rules prohibiting the carrying of knives that were in effect prior to July 1, 2013. Therefore, if a community college enacted a rule prohibiting the carrying of any knife while on the college campus prior to July 1, 2013, it is our opinion that the community college may continue to enforce such rule unless K.S.A. 2013 Supp. 12-16,134 is amended to expressly invalidate local knife regulations enacted prior to July 1, 2013.

Even though K.S.A. 2013 Supp. 12-16,134 prohibits a community college from enacting a new rule regulating knives, it does not prohibit a community college from taking action if a crime is committed on campus with a knife. For example, campus law enforcement officers may arrest a person who threatens a passerby with a machete, because such conduct is unlawful in any instance.¹⁸ However, we note that in 2013, the legislature removed all references to knives, including a "dagger, dirk, . . . dangerous knife, straight edged razor, [or] stiletto. . . .," from two criminal statutes, criminal use of weapons (K.S.A. 2013 Supp. 21-6301) and criminal carrying of a weapon (K.S.A. 2013 Supp. 21-6302).¹⁹ As a consequence, it is no longer a crime to possess a dagger, dirk, dangerous knife, straight edged razor, stiletto, or other weapon of like character with the intent to use the same unlawfully against another, or to carry the same weapon concealed on one's person.

Conclusion

In summary, it is our opinion that current law allows the board of trustees of a community college to prohibit the open carry of firearms in buildings or on campus grounds by any person.

The board of trustees of a community college may restrict or prohibit concealed carry inside some or all campus buildings by exercising the exemption found in K.S.A. 2013 Supp. 75-7c20(j)(5), or by providing adequate security measures in a building and posting that building as prohibiting concealed carry. However, a community college may *not* ban concealed carry by PFPA licensees on the grounds of a community college.

¹⁶ K.S.A. 2013 Supp. 12-16,134(c)(1).

¹⁷ See Attorney General Opinion No. 2014-01.

¹⁸ See K.S.A. 2013 Supp. 21-5412.

¹⁹ L. 2013, Ch. 88, § 2.

A community college may *not* enact a new rule prohibiting the carrying of knives, as defined in K.S.A. 2013 Supp. 12-16,134(c)(1), whether concealed or unconcealed. If a community college enacted such a rule prior to July 1, 2013, it is our opinion that the community college may continue to enforce that rule unless K.S.A. 2013 Supp. 12-16,134 is amended to expressly invalidate any such rules that were in existence prior to July 1, 2013.

There are no state statutes that address the carrying of weapons other than guns or knives, such as billy clubs or metal knuckles, so a community college may ban those types of weapons from campus.

Sincerely,

Derek Schmidt
Attorney General

Sarah Fertig
Assistant Attorney General

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