

SECTION II.F. WEAPONS ON PREMISES
PROCEDURES FOR THE CONCEALED CARRY OF HANDGUNS ON CAMPUS
– NOTICE AND COMMENT

The Board of Trustees revised Section II.F. of the Lone Star College Policy Manual on **April 6, 2017**. The notice and comment period for the policy was open to the public from **January 23, 2017 through February 22, 2017**. The procedures were last updated on **April 6, 2017**. The notice and comment period for the procedures was open to the public from **February 28, 2017 through March 30, 2017**. The policy and procedures were posted for public comment at <http://www.lonestar.edu/proposed-policies.htm>. Commenters could anonymously submit comments to LSC-PolicyFeedback@lonestar.edu and LSC-ProcedureFeedback@lonestar.edu. We received one response to the policy revision and thirteen responses to the procedures, some containing comments on multiple subjects. The comments have been broken down here by topic rather than by author.

Policy Section II.F. Comment and Response

Comment 1: A commenter stated that the revised Section II.F. seems to lack a purpose because it appears to only prohibit people from bringing a firearm on campus if they intend to use it, and if a person intends to use a firearm on campus, the policy probably won't deter them. The commenter opined that the policy section appears to allow people to carry firearms on campus if they do so unknowingly, unintentionally, or not recklessly.

Response 1: The revised policy states in part that “[u]nless otherwise allowed by the Chancellor’s Procedures, LSC Police Department regulations, or state or federal law, a person may not knowingly, intentionally, or recklessly enter College premises or College-sponsored events” with a prohibited weapon, including a firearm. The College agrees that a person determined to use a prohibited weapon on campus is unlikely to be deterred by a policy statement, but Section II.F. is not primarily directed to those individuals—though it does apply to them. State laws (e.g., against murder) are designed to deter such individuals from their designs.

Section II.F. is directed to all individuals who might be inclined to bring a prohibited weapon on campus—whether they have an active intent to use it or not. Section II.F. as revised makes clear that simply bringing a weapon on campus, whether intending to use it or not, violates College policy if it is done intentionally (the person wanted to bring a prohibited weapon on campus), knowingly (the person knew that he or she was bringing a prohibited weapon on campus), or recklessly (the person reasonably *should have known* that he or she was bringing a prohibited weapon on campus). Recklessness does not refer to how the firearm is being used (i.e., following gun safety rules); rather, it refers to whether the person reasonably should have known that he or she had brought a prohibited weapon on campus.

Procedures for the Concealed Carry of Handguns on Campus – Comments and Responses

Comment 1: A commenter asked if a faculty member has a right to not meet with an armed student at all, or if the faculty member can ask the student to self-disarm as a condition of meeting.

Response 1: A faculty member may not refuse to meet with a student the faculty member suspects to be legally carrying a concealed handgun, nor may a faculty member require anyone following the law to self-disarm before meeting.

No one other than a police officer with reasonable suspicion that a crime is being committed may ask whether any person is carrying a concealed handgun or has a license to carry a concealed handgun, and individuals legally carrying a concealed handgun should not disclose that fact. Faculty members should not know whether any student is armed. A faculty member may designate an assigned office as an exclusion zone within the procedural bounds, but the faculty member must meet with any student (not only with license holders, lest they be compelled to reveal that they are a license holder) elsewhere upon request. Requiring students to disarm while not in an exclusion zone would run counter to Texas law, which the College is bound to follow.

If a faculty member is reasonably concerned that any student or other individual—armed or not—may become violent during a meeting, that faculty member may request that a Lone Star College police officer be present in or nearby the meeting place. Faculty members need not immediately meet with any student, in an assigned office or elsewhere, when the student requests a meeting; if necessary for safety purposes, a meeting can be scheduled for a time when a police officer may be present.

Comment 2: A commenter stated that allowing employees with assigned offices to designate their offices as exclusion zones is unfair to the majority of employees who work in common areas and indicated concern about the message it would send to those employees.

Response 2: Having assigned, private offices for only some employees necessarily creates a distinction between employees with that privilege and those without it. Allowing employees in open offices or cubicle settings to designate those areas as exclusion zones would arguably violate Texas law’s requirement that College concealed carry regulations not have the effect of generally prohibiting concealed carry. This option for employees with assigned offices was modeled after similar policies at other Texas colleges. The College is open to further dialogue on this subject.

Comment 3: A commenter asked why certain criteria for establishing an exclusion zone (specifically, spaces used for discipline, evaluations, hearings, etc.) does not apply to classrooms and offices.

Response 3: Although faculty deal with matters of student discipline daily, banning concealed carry in every place that faculty and students interact would have the effect of banning concealed carry generally, which the law forbids. The College is limited to establishing reasonable policies and procedures to manage concealed carry without banning it. For specific, limited interactions in which it is obvious from the outset that at least one participant may have an interest potentially adverse or even hostile to the College, exclusion zones may be permitted.

Comment 4: A commenter suggested that rooms used for students and faculty with hearing impairments, who are protected by the Americans with Disabilities Act (“ADA”), should be considered exclusion zones under the “patient care” rationale.

Response 4: The “patient care” rationale is for premises where patient care is actually taking place and is based upon Texas Penal Code § 46.035, which prohibits handguns on the premises of a hospital or nursing home. Attending or conducting class while having a disability, even with accommodation, is not “patient care.”

Additionally, the ADA does not “protect” individuals with disabilities from being near handguns—in fact, by prohibiting discrimination against individuals with disabilities, the ADA would protect a licensed individual with a hearing impairment’s right to carry concealed.

Comment 5: A commenter suggested that the CHI campus should be an exclusion zone based on the “significant risk of substantial harm” exception.

Response 5: Permanent exclusion zones are being designated by college Presidents or designees in conjunction with the Chairs of the College’s Campus Carry Task Force. Future permanent exclusion zones will be designated by the Campus Carry Safety Advisory Committee. Anyone wanting to request that a certain area be a permanent exclusion zone should email the Campus Carry Safety Advisory Committee as provided in the procedures.

Comment 6: A commenter suggested that an employee’s choice to make the office assigned to that employee an exclusion zone should not preclude that employee from carrying a concealed handgun with the appropriate permit.

Response 6: An exclusion zone is, by definition, an area where concealed carry is prohibited. By designating their assigned office as an exclusion zone, employees preclude themselves from legally carrying a concealed handgun in that office.

Comment 7: A commenter stated that the phrase “on or about” as used in state law is vague and should be defined.

Response 7: The procedures define “on or about their person” by stating that it refers to licensed holders keeping a concealed handgun close enough so that they can reach it without materially changing position. Footnote 2 in the procedures states that if a concealed handgun is kept in a backpack or handbag, the license holder should be able to reach the bag before anyone else could.

Comment 8: A commenter suggested that the Campus Carry Safety Advisory Committee should represent a cross-section of the college population including administrators, faculty, staff, and students from all colleges.

Response 8: Diverse viewpoints should be represented on this committee, and the committee must consist of at least five members selected by the Chancellor. There is no maximum size for the committee, but the Chancellor may elect to keep the committee relatively small for efficiency reasons.

Comment 9: A commenter suggested that all sporting events should be excluded because children can be present.

Response 9: Under state law, the College cannot make every location where children may be present an exclusion zone as this would have the effect of banning concealed carry on campus. Instead, the College makes areas dedicated for use by children an exclusion zone, including classrooms for K-12 students and childcare centers. Under the procedures, ticketed sporting events are considered temporary exclusion zones.

Comment 10: A commenter requested that the procedures prohibit licensed players from carrying a concealed handgun while engaged in sports.

Response 10: The College agrees that this issue presents a concern. The procedures designate ticketed sporting events as temporary exclusion zones, but for non-ticketed sporting events, general principles of concealed carry apply. License holders who carry concealed handguns must conceal them in a holster that completely covers the trigger and trigger guard area, and must be effectively concealed—open carry is prohibited, and incidental display may be reported to the Lone Star College Police. Given the nature of athletic apparel and activity, it is unlikely that players could effectively conceal a handgun on or about their person while engaged in sports activity. Additionally, changing areas such as gym locker rooms are exclusion zones and could not be used by a player carrying concealed. If license holders complied with all general principles related to campus carry, they could in theory carry concealed while participating in a non-ticketed sporting event. As always, such an individual would bear full responsibility for consequences of the decision to carry a concealed handgun, including those for accidental discharge.

Comment 11: Two commenters requested provisions addressing other weapons such as knives, Tasers®, and pepper spray.

Response 11: The College’s Policy Manual generally disallows weapons prohibited under Texas Penal Code § 46.05, including chemical dispensing devices other than small chemical dispensers sold commercially for personal protection. Additionally, Policy Manual Sections VI.E.1.02. and VI.E.1.03. prohibit students from carrying certain listed weapons, including Tasers®, illegal knives, and clubs. The carrying outside one’s own property or vehicle of many dangerous weapons, such as bowie knives, daggers, and any knife with a blade longer than five and one-half inches, is already illegal under Texas Penal Code § 46.05.

Comment 12: A commenter stated that having to request an alternative meeting space would effectively “out” them as carrying a concealed handgun and expressed concern over possible negative treatment by professors as a result. The commenter suggested that all professors should hold office hours in an alternate location once a week, so that students would not have to ask and risk self-identifying.

Response 12: The College recognizes that this is an important issue. The procedures make clear that employees with assigned offices who provide effective notice, converting their offices into exclusion zones, must also meet with other members of the College community in another location upon request and may not inquire or comment as to why the requester desires an alternative meeting location. Campus carry training materials under development at this time may recommend to faculty with assigned exclusion zone offices that they include in their course syllabi standing alternate office hours at a location that is not an exclusion zone.

Comment 13: A commenter asked why employees may designate assigned offices to be exclusion zones and opined that it is unfair that license holders may not use individual College-owned spaces assigned to them to store a concealed handgun (e.g., before entering exclusion zones or instead of keeping it constantly on or about the license holder’s person).

Response 13: The College believes at this time that employees with assigned, single-occupancy offices not generally open to the public may designate such offices as exclusion zones without violating the spirit or letter of state law. This designation, while not without its own requirements and challenges, does not implicate safety or liability concerns in the way that an unattended and/or unsecured handgun in a private office would. Texas law allows only the carrying of concealed handguns on or about a license holder’s person; it does not require colleges to allow handgun storage on their premises.

Comment 14: A commenter requested that training materials include what instructors and students should do in the event of an accidental discharge of a concealed handgun.

Response 14: The Colleges agrees. Training materials will address the topic of accidental discharge.

Comment 15: Some commenters expressed generalized support for the right to bear arms protected by the federal and state constitutions.

Response 15: The College respects constitutional rights and has drafted its policies and procedures with the intent of securing and protecting all constitutional rights, recognizing that balances between the competing rights of different constituencies are sometimes required.

Comment 16: A commenter asked if there would be a designated safe area for meeting with students for faculty who designate their assigned offices as exclusion zones.

Response 16: The College does not currently have plans to designate alternate meeting areas for faculty who designate their offices as exclusion zones. Please note that an alternate meeting area should not also be an exclusion zone, because the intent is to allow for the faculty to meet with students who may be legally carrying a concealed handgun. If a faculty member is reasonably concerned that any student or other individual—armed or not—may become violent during a meeting, that faculty member may request that a Lone Star College police officer be present in or nearby the meeting place.

Comment 17: A commenter objected to the requirement that employees who designate their assigned offices as exclusion zones must make “reasonable accommodations” to meet with other members of the College community in another location upon request without inquiring or commenting as to why another meeting place is requested. The commenter pointed out that the procedures do not require such “reasonable accommodations” for other exclusion zones such as locker rooms or hearing rooms. The commenter also stated that the reasonable accommodation language is “very dangerous.”

Response 17: Generally, other exclusion zones are places where attendance is not required (such as ticketed sporting events) or, if attendance is required (for education or employment), where there is a compelling reason to prohibit concealed carry, either because the presence of a handgun presents a significant risk of substantial harm, such as areas for the exclusive use of children or where chemicals or explosive agents are present, or because concealment (and therefore compliance with the law) would be difficult, such as places where clothes are changed or where protective equipment is required. Assigned offices are places where there is not a compelling reason to prohibit concealed carry, but where—because of potential feasibility and out of respect for individual autonomy—the College allows employees to choose to exclude legally carried concealed handguns. However,

employees must still meet with other members of the College community to fulfill the duties of their positions.

The College disagrees that requiring employees with assigned exclusion zone offices to reasonably accommodate faculty, staff, or students requesting to meet in other locations presents any significant danger. The procedures do not require a meeting in an alternate location to occur immediately upon request; the meeting could be scheduled for any alternate place and time convenient for both parties. If an employee with an assigned exclusion zone office is reasonably concerned that any student or other individual—armed or not—may become violent during any meeting, that faculty member may request that a Lone Star College police officer be present in or nearby the meeting place.

Comment 18: A commenter objected to “the requirement of annual training” as burdensome, stating that annual training is not required to obtain a license to carry a handgun.

Response 18: The College recognizes that the State of Texas does not require annual training to obtain and maintain a license to carry a handgun. However, the level of training required by the State of Texas does not necessarily determine how much training (if any) should be presented to members of the College community on this topic.

Training materials are still being developed, and it is uncertain at this point to what extent such training materials and presentations will simply be made available and to what extent any training will be mandatory. College administrators try to be sensitive to the time constraints on faculty, staff, and students, and if any training is made mandatory, we imagine that such training will be limited to the shortest possible time to provide necessary information and may be required no more than once per year.