FIREARMS ON CAMPUS
Do Texas Gun Laws and UT Rules and Regulations Prohibit Firearms on Campus?

What Texas Laws and UT Rules and Regulations Relate to:

1. Open Carry
2. Concealed Handguns

Is there a Difference In How Texas Laws and UT Rules and Regulations Apply to:

1. Students
2. Employee/Faculty
3. General Public
Open Carry in Texas

• Can a Person Open Carry in Texas?
  – A person can openly carry rifles and shotguns, but not handguns
    • Limited by PC §46.03 - Places Weapons Prohibited
    • Limited by PC §46.035 – Unlawful Carrying of Handgun by License Holder

• Can a Person Open Carry in Texas if they have a CHL?
  – No, a CHL only enables a person to carry a handgun if it is concealed
Texas Law-Educational Institution

• Penal Code §46.03(a)(1) - Places Weapons Prohibited

  – A person commits an offense if the person intentionally, knowingly, or recklessly possesses or goes with a firearm, illegal knife, club, or prohibited weapon listed in Section 46.05(a):

  – On the physical premises of a school or educational institution, any grounds or building on which an activity sponsored by a school or educational institution is being conducted, or a passenger transportation vehicle of a school or educational institution, whether the school or educational institution is public or private, unless pursuant to written regulations or written authorization of the institution;
• Penal Code §46.035 (2) & (4) – Unlawful Carrying of Handgun by License Holder

  – (2) on the premises where a high school, collegiate, or professional sporting event or interscholastic event is taking place, unless the license holder is a participant in the event and a handgun is used in the event.

  – (4) on the premises of a hospital licensed under Chapter 241, Health and Safety Code, or on the premises of a nursing home licensed under Chapter 242, Health and Safety Code, unless the license holder has written authorization of the hospital or nursing home administration, as appropriate.
Premises

• “Premises” means a building or a portion of a building. The term does not include any public or private driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area.
– Labor Code §52.061 - Employee Parking Lot Protection Act
  • allows employees of a college or university to keep legally owned firearms and ammunition in their locked vehicles on campus streets and parking areas.

– Government Code §411.2032
  • relating to the transportation and storage of firearms and ammunition by concealed handgun license holders (including students) in locked, private vehicles on the campuses of certain institutions of higher education.
UT Rules and Regulations
Student Conduct

• Regents’ *Rules & Regulations* - Rule 50101

  – Each student is responsible for the notice of and compliance with the provisions of the Regents’ Rules and Regulations and the rules of the institution.

• Student Conduct and Discipline - Model Policy 2.11 - Use of Explosives, Weapons or Hazardous Chemicals

  – Unless authorized by federal, State, or local laws, a student who possesses or uses any type of explosive, firearm, imitation firearm, ammunition, hazardous chemical, or weapon as defined by State or federal law, while on campus or on any property or in any building or facility owned or controlled by the U. T. System or institution, is subject to discipline.
• Regents’ *Rules & Regulations* - Rule 30103

  – Sec. 1 - Statutory Compliance
    • Every employee is expected to obey all federal, State, and local laws, and particularly Texas Penal Code, Chapter 42 and Section 46.03 and Texas Education Code Section 51.935. Any employee who violates any provision of these statutes is subject to disciplinary action, including dismissal, notwithstanding any action by civil authorities on account of the violation.

  – Sec. 2 - Disruption of Activities
    • Any employee who, acting singly or in concert with others, obstructs, disrupts, or interferes with any teaching, educational, research, administrative, disciplinary, public service, or other activity, meeting, or event authorized to be held or conducted on campus or on property or in a building or facility owned or controlled by The University of Texas System or any of the institutions is subject to disciplinary action, including dismissal. Obstruction or disruption includes but is not limited to any act that interrupts, modifies, or damages utility service or equipment, communication service or equipment, university computers, computer programs, computer records, or computer networks accessible through University computer resources.
Regents’ Rules & Regulations - Rule 80101

• Sec. 1 - Category of Facility
  – The property or buildings, owned or controlled by The University of Texas System are not open for assembly, speech, or other activities as are the public streets, sidewalks, and parks. The responsibility of the Board of Regents to operate and maintain an effective and efficient system of institutions of higher education requires that the time, place, and manner of assembly, speech, and other activities on the grounds and in the buildings of the U. T. System or any of the institutions be regulated. Acting pursuant to the general authority of Texas Education Code, Chapter 65, and the specific authority of Texas Education Code, Chapter 51, the Board adopts and promulgates rules related to the use of buildings and grounds for purposes other than programs and activities related to the role and mission of the U. T. System and the institutions.

• Sec. 2 - Authorized Users
  – No person, organization, group, association, or corporation may use property or buildings owned or controlled by the U. T. System or any of the institutions for any purpose other than in the course of the regular programs or activities related to the role and mission of the U. T. System and the institutions, unless authorized by the Regents' Rules and Regulations. Any authorized use must be conducted in compliance with the provisions of the Regents' Rules and Regulations, the approved rules and regulations of the institution, and applicable federal, State, and local laws and regulations.
• Sec. 3 - Identification Required
  – Pursuant to the authority conferred upon the Board of Regents by Texas Education Code Section 51.209, in order to protect the safety and welfare of students, employees, patients, and other participants in the programs and activities of the U. T. System and the institutions and to protect the property and buildings of the U. T. System and the institutions, it shall be unlawful for any person who is on any property or in a building owned or controlled by the U. T. System or any of the institutions to refuse to identify himself or herself in response to a request by an institutional representative. For the purpose of this Section, a person identifies himself or herself by: (1) giving his or her name and complete address substantiated by a current driver's license, voter registration card, or other official documentation; and (2) stating truthfully whether he or she is a student or employee of the U. T. System or any of the institutions. For the purpose of this Section, an "institutional representative" is:

• Sec. 4 - Refusal to Identify
  – Any person who refuses to identify himself or herself in accordance with this Rule may be convicted of a misdemeanor punishable by a fine of not more than $200. Students, faculty, or staff who refuse to identify themselves in accordance with this Rule are also subject to disciplinary action.
So, What If A Person Brings a Firearm to Campus?

1. Is it a “Firearm” or Concealed Handgun?

2. Who is Carrying the Firearm?

3. Where on Campus is the Person Located?
Who is Carrying the Firearm?

- Authorized by Law
  - Peace Officers - PC 46.15(a)(1)(Non-applicability)
  - Special Investigators - PC 46.15(a)(1)
  - Other Officials - PC 46.15(a)(3), 46.03(b), 46.15(a)(4)(6), 46.035(h-l)
    - Community Supervision and Correction Officers
    - Members of the Armed Forces
    - National Guard
    - Prison Guards
    - Officers of a Court
    - Judges
    - District Attorneys

- Authorized by Written Regulations or Authorization - PC 46.03(a)(1)
  - Gun safety or hunter training
  - Theatrical performances
  - Authorized School Employees

- Is it a Student, an Employee/Faculty Member, or a Member of the General Public
Where on Campus is the Person Located?

• School Buildings – 46.03

• Public or Private Driveway, Street, Sidewalk or Walkway, Parking Lot, Parking Garage, or Other Parking Area – PC 46.035(a)

• School Events Held On and Off Campus – PC 46.03
  – School sponsored softball game on school property but in an outdoor facility
  – Theatre Performance at a city auditorium

• Collegiate Sporting Event or Interscholastic Event – PC 46.035

• Buses/Passenger Transportation Vehicle of a School – PC 46.03

• Board Meetings – PC 46.03

• Polling Places – PC 46.03
FLOWCHART ANALYSIS

the Person Authorized by Law or By University Policy to Carry a Firearm or Concealed Handgun onto Campus?

- Yes – No Violation
- No – Continue the Analysis
➢ No – Move to Employee Analysis
➢ Yes
  ➢ Is it a Concealed Handgun?
    ❖ No – See Below
    ❖ Yes
      ➢ Was it Concealed?
        ❖ No – Violation of Penal Code
        ❖ Yes – Continue the Analysis
      ➢ Where on campus is the student located?
        ❖ Premises, School Events Held On and Off Campus, Bus, etc. - Violation of Penal Code
        ❖ Public or private driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area – No Violation
  ➢ Is it a Rifle?
    ❖ Yes
      ➢ Where on campus is the student located?
        ❖ Premises, School Events Held On and Off Campus, Bus, etc. - Violation of Penal Code
        ❖ Public or private driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area – Violation of UT Policy
Is the person authorized by law or by written authorization to carry a Concealed Handgun or Rifle

No

Is the person a Student

No

Go to Employee/Faculty or General Public Slide

Yes

Is it a Concealed Handgun or Rifle

Rifle

Concealed Handgun

Is it a Concealed Handgun or Rifle

No

Violation of Penal Code

PC 46.03
PC 46.035

Location of Student on Campus

Sidewalk
Parking Lot
Street

Violation of Penal Code

No Violation

Location of Student on Campus

Sidewalk
Parking Lot
Street

Violation of Penal Code

Go to Employee/Faculty or General Public Slide

No Violation

Violation of Penal Code

PC 46.03
PC 46.035

Firearms on Campus

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the Person an Employee or Faculty Member?
  ❖ No – Move to Next Slide
  ❖ Yes
    ➢ Is it a Concealed Handgun?
      ❖ No – See Below
      ❖ Yes
        ➢ Was it Concealed?
          ❖ No – Violation of Penal Code
          ❖ Yes – Continue the Analysis
            ➢ Where on campus is the employee/faculty member located?
              ❖ Premises, School Events Held On and Off Campus, Bus, etc. - Violation of Penal Code
              ❖ Public or private driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area – No Violation

  ➢ Is it a Rifle?
    ❖ Yes
      ➢ Where on campus is the employee/faculty member located?
        ❖ Premises, School Events Held On and Off Campus, Bus, etc. - Violation of Penal Code
        ❖ Public or private driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area – No Violation
          • Can the employee/faculty member be charged with disorderly conduct per Penal Code
          • Can the employee/faculty member be disciplined for disruption of activity per UT Policy
          • Can the employee/faculty member be charged or disciplined for failure to id per UT Policy
Person Member of the General Public?
- No – Refer Back to Questions 1-2
- Yes
  - Is it a Concealed Handgun?
    - No – See Below
    - Yes
      - Was it Concealed?
        - No – Violation of Penal Code
        - Yes – Continue the Analysis
  - Where on campus is the person located?
    - Premises, School Events Held On and Off Campus, Bus, etc. - Violation of Penal Code
    - Public or private driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area – No Violation
- Is it a Rifle?
  - Yes
    - Where on campus is the person located?
      - Premises, School Events Held On and Off Campus, Bus, etc. - Violation of Penal Code
      - Public or private driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area – No Violation
      - Can the person be charged with disorderly conduct per Penal Code
      - Can the person be charged or disciplined for failure to id per UT Policy
      - Can the person be excluded from campus per Regents Rule 80101
        - The property or buildings, owned or controlled by The University of Texas System are not open for assembly, speech, or other activities as are the public streets, sidewalks, and parks.
        - No person, organization, group, association, or corporation may use property or buildings owned or controlled by the U. T. System or any of the institutions for any purpose other than in the course of the regular programs or activities related to the role and mission of the U. T. System and the institutions, unless authorized by the Regents' Rules and Regulations.
Is the person a member of the General Public

- Yes
  - Is it a Concealed Handgun or Rifle
    - Yes
      - Location of Person on Campus
        - Sidewalk
          - Violation of Penal Code
            - PC 46.03
            - PC 46.035
        - Parking Lot
          - Violation of Penal Code
            - PC 46.03
            - PC 46.035
        - Street
          - No Violation
    - No
      - Violation of Penal Code
        - PC 46.03
        - PC 46.035
      - Unauthorized User
      - Disorderly Conduct
      - Failure to ID

- No
  - Go to Student or Employee/Faculty Member Slide

Location of Person on Campus

- Sidewalk
  - Violation of Penal Code
    - PC 46.03
    - PC 46.035
  - Unauthorized User
  - Disorderly Conduct
  - Failure to ID
  - No Violation

- Parking Lot
  - Violation of Penal Code
    - PC 46.03
    - PC 46.035
  - Unauthorized User
  - Disorderly Conduct
  - Failure to ID
  - No Violation

- Street
  - Violation of Penal Code
    - PC 46.03
    - PC 46.035
  - Unauthorized User
  - Disorderly Conduct
  - Failure to ID
  - No Violation
Detain, Disarm & Arrest

• Do I have the right to “detain”? 
• Do I have the right to “disarm”? 
• Do I have the right to “arrest”? 

Firearms on Campus
Do I Have the Right to “Detain”?

See Regents’ *Rules & Regulations*
Rule 80101
Do I Have the Right to “Disarm”?  

- Is the Person Under Arrest or Do You Have a Reasonable Belief that it is Necessary to Disarm for Protection

  — Government Code §411.206
  • If a peace officer arrests and takes into custody a license holder who is carrying a handgun under the authority of this subchapter, the officer shall seize the license holder’s handgun and license as evidence.

  — Government Code §411.207
  • A peace officer who is acting in the lawful discharge of the officer’s official duties may disarm a license holder at any time the officer reasonably believes it is necessary for the protection of the license holder, officer, or another individual.
Do I Have the Right to “Arrest”? 

- Has The Person Committed an Offense?

  - Disorderly Conduct (Penal Code §42.01) 
    - (a) A person commits an offense if he intentionally or knowingly:
      - (8) displays a firearm or other deadly weapon in a public place in a manner calculated to alarm;

  - Failure to Identify (Education Code §51.202 /Regents’ Rule 80101)

NOTE: GUN FREE ZONE (Federal Law) does not apply to Universities and Colleges
You Too Could Be On YouTube

• http://www.youtube.com/watch?v=A8r4MK3R4PI&list=UUqMLEmIV1pxWlkouaqlBbDA#t=207

• http://www.youtube.com/watch?v=vN0GcahEvIc

• http://www.youtube.com/watch?v=LfFFplGzQyw