

Policy Area: Safety and Security

Number: PPP-81

Name: Firearms Policy for ETSU

Purpose: To maintain a safe educational and working environment for students and employees by establishing rules for possessing and carrying firearms on ETSU property.

Definitions

As used in this policy:

1. **"Carry"** means to physically transport a firearm or other weapon on or about the body.
2. **"Concealed"** means not visible to ordinary observation.
3. **"Employee"** means all faculty, executive, administrative, professional and support staff employed in the service of and whose compensation is paid by East Tennessee State University. **"Employee"** does not include independent contractors who provide goods or services to the institution or student workers as defined in TBR Policy 5:01:01:00.
4. **"Fulltime Employee"** includes all faculty, executive, administrative, professional and support staff who are employed on a full-time basis by ETSU, but does NOT include a person who is enrolled as a student at ETSU, regardless of whether the person is also an employee. A full-time employee is one who has a regular work week of at least 37.5 hours, or who is scheduled to carry a full teaching load or its equivalent. This includes full-time modified fiscal year (MODFY) employees, temporary employees and term appointees who have a regular work week of at least 37.5 hours or are scheduled to carry a full teaching load or its equivalent. **"Full-time Employee"** does NOT include independent contractors who provide goods or services to the institution. For example, if an institution contracts for food services, the contractor's employees are NOT allowed to carry a handgun on the premises, even if they work on the premises full time.
5. **"Enrolled as a Student"** as used in the definition of "Full-time Employee" means to be registered for an academic offering at ETSU, whether or not the academic offering is offered for credit or is not for credit.
6. **"Firearm"** means any weapon designed, made or adapted to expel a projectile by the action of an explosive or any device readily convertible to that use.
7. **"Handgun"** means any firearm with a barrel length of less than twelve inches (12") that is designed, made or adapted to be fired with one (1) hand.
8. **"Institution Property"** means all land, ground, structures, and any other real property owned, operated or controlled by ETSU
9. **"Motor Vehicle"** means a motor vehicle as defined in T.C.A. § 55-1-103.
10. **"On or About the Person"** means carried concealed on the person or carried concealed in a handbag, briefcase or other carrying case that remains within an arm's reach of the person at all times.
11. **"Parking Area"** means property provided by ETSU for the purpose of permitting employees, students, or invitees to park motor vehicles.

12. **"Possess"** means either: (1) direct physical control over a firearm or other weapon at a given time; or (2) the power and intention at any given time to exercise dominion and control over a firearm or other weapon. Examples of possessing a firearm or other weapon include, without limitation, the presence of a firearm or other weapon on or about the person of the employee or in the employee's motor vehicle, desk, lunch box, locker, tool kit, bag, purse, cabinet, or office.
13. **"Student"** means any person who is admitted and/or registered for study at ETSU for the current academic period. This shall include any period of time following admission and/or registration, but preceding the start of classes for any academic period. It will also include any period which follows the end of an academic period through the last day for registration for the succeeding academic period, and during any period while the student is under suspension from the institution.
14. **"Valid Handgun Carry Permit"** means a current handgun carry permit issued by the State of Tennessee under T.C.A. §39-17-1351 or issued by another state that has been given reciprocity under T.C.A. §39-17-1351(r).
15. **"Weapon"** means firearm; explosive; explosive weapon; bowie knife; hawk bill knife; ice pick; dagger; slingshot; leaded cane; switchblade knife; blackjack; metal knuckles; razors and razor blades, except those used solely for personal shaving; any sharp pointed or edged instrument, except unaltered nail files and clips and tools used solely for preparation of food instruction and maintenance; or any other weapon of like kind, not used solely for instructional or school-sanctioned ceremonial purposes.

Policy

- I. General Prohibition. Except as otherwise provided in this policy, possession of firearms or other weapons on institution property is prohibited. (T.C.A. §39-17-1309). Violation could carry both criminal charges and disciplinary action.
- II. Exceptions for Employees with Valid Handgun Carry Permits.
 - A. In accordance with T.C.A. § 39-17-1309(e)(9) and subject to the limitations set forth in this policy, full-time employees who possess a valid handgun carry permit and are authorized to carry a handgun under T.C.A. § 39-17-1351 may carry a handgun on property owned, operated, or controlled by ETSU at which they are employed; provided that they are not permitted to carry a handgun openly or in any manner in which the handgun is visible to ordinary observation, or to intentionally disclose to other employees, students or third parties that they are carrying a handgun, except for the registration required in subsection 1, below.
 1. Full-time employees who intend to exercise this right to carry a handgun must first notify the ETSU Department of Public Safety in person. Where ETSU has locations in more than one jurisdiction, the employee must notify the law enforcement agency in each jurisdiction where they intend to carry on campus.
 2. The employees' names and other identifying information shall be confidential, not open for public inspection and shall not be disclosed except to the Department of Public Safety and/or related law enforcement agencies with jurisdiction.
 3. The Department of Public Safety shall develop and implement policies

and procedures regarding notification and confidentiality.

4. Employees who have properly notified Public Safety may not carry a handgun on the property of any TBR institution other than ETSU. If two or more institutions share a property, employees of all sharing institutions may carry on the shared property.
5. Full-time employees who elect to carry a handgun under T.C.A. § 39-17-1309(e)(9) shall have their valid hand gun carry permit in their immediate possession at all times when carrying a handgun and shall display the permit on demand of a law enforcement officer.
6. Part-time employees may not carry a handgun on institution property, even if they have carry permits.
7. Employees who elect to carry a handgun under T.C.A. § 39-17-1309(e) (9) are not permitted to carry a handgun at the following times and at the following locations:
 - a) Stadiums, gymnasiums, and auditoriums when school-sponsored events are in progress, such as ball games; pep rallies; convocations; graduations; concerts, plays and other entertainment; etc. This includes such events that are sponsored by recognized student organizations.
 - b) Formal meetings regarding employee or student disciplinary matters.
 - c) Formal meetings regarding tenure issues.
 - d) A hospital, or an office where medical or mental health services are the primary services provided, such as a clinic, student health center or a mental health counseling center
 - e) Any location where a provision of state or federal law prohibits the carrying of a handgun on that property, including, but not limited to:
 - i. On the premises of a child care agency, in any vehicle used by a child care agency to transport children, or in the presence of a child being cared for by a child care agency, such as a campus day care center.
(Source: Rules of the Tennessee Department of Human Services, Chapter 1240-04-03, Licensure Rules for Child Care Centers);
 - ii. In or on any public K-12 school building, bus, school campus, grounds, recreation area, athletic field or any other property owned, operated, or while in use by any K-12 board of education, school, or directors for the administration of any public or private K-12 educational institution. This includes buildings or parts of buildings that are dedicated to us by a campus K-12 school, middle college, etc. *(Source: T.C.A. § 39-17-1309);*
 - iii. In or on any building, bus, campus, grounds, recreation

area, athletic field or any other property owned, operated, or while in use by a private institution of higher education that prohibits possession of firearms on its property, For example, if ETSU operates in a facility shared with a private institution of higher education that prohibits firearms on its property, an ETSU employee will not be able to carry a handgun into the portion of the facility controlled by the private institution. (Source: T.C.A. § 39-17-1309);

- iv. A public park, playground, civic center or other building facility, area or property which, at the time of the employee's possession of a handgun, the employee knows or should know is being used by board of education, school, college or university board of trustees, regents, or directors for the administration of any public or private educational institution for the purpose of conducting an athletic event or other school-related activity on an athletic field, permanent or temporary, including but not limited to, a football or soccer field, tennis court, basketball court, track, running trail, Frisbee field, or similar multi-use field (Source: T.C.A. § 39-17-1311); and
- v. A federal facility. (Source: 18 United States Code § 1930)
- f) Property leased to the institution, if the lessor has prohibited the possession of firearms on the premises.
- g) In any motor vehicle that is owned, operated, or controlled by ETSU and that is provided to an employee for use during the course of employment. The President may grant an exception to this prohibition to Directors who are provided ETSU vehicle under the terms of their employment agreement.

8. The employee shall not possess a handgun:

- a. While under the influence of alcohol or any controlled substance or controlled substance analogue (Source: T.C.A. § 39-17-1321); or
- b. While consuming liquor, wine, beer, or other alcoholic beverage within the confines of an establishment open to the public where liquor, wine, beer, or other alcoholic beverages are served for consumption on the premises. (Source: T.C.A. § 39-17- 1321)

B. Any employee who is the holder of a valid handgun carry permit recognized in Tennessee may, unless expressly prohibited by federal law, transport and store a firearm or firearm ammunition in the permit holder's motor vehicle while on or utilizing a parking area if:

- 1. The employee's motor vehicle is parked in a location where it is permitted to be, and
- 2. The firearm or ammunition being transported or stored in the motor vehicle:
 - a. Is kept from ordinary observation if the employee is in the motor vehicle; or

- b. Is kept from ordinary observation and locked within the trunk, glove box, or interior of the employee's motor vehicle or a container securely affixed to such motor vehicle if the employee is not in the motor vehicle.
3. An employee transporting, storing or both transporting and storing a firearm or firearm ammunition in accordance with this paragraph does not violate this policy or the law if the firearm or firearm ammunition is observed by another person or security device during the ordinary course of the employee securing the firearm or firearm ammunition from observation in or on a motor vehicle.

C. When on the premises of ETSU where they are employed, employees who have properly notified Public Safety of their intent to carry a handgun on the premises under T.C.A. § 39-17-1309(e)(9) and this policy must have the handgun either:

1. On or about their person, which means that the gun must be carried concealed on the person or it must be carried concealed in a handbag, briefcase or other carrying case that remains within an arm's reach of the person at all times; or
2. Secured in their personal motor vehicle in accordance with T.C.A. § 39-17-1313.

III. Other Exceptions to the Prohibition on Weapons:

- A. A person may possess or carry a firearm or other weapon used solely for instructional or school-sanctioned ceremonial purposes on institution property, with notification and permission of the Department of Public Safety.
- B. A non-student adult may possess a firearm; if the firearm is contained within a private vehicle operated by the adult and is not handled by the adult, or by any other person, while the vehicle is on institution property.
- C. Persons employed in the Army, Air Force, Navy, Coast Guard or Marine service of the United States or any member of the Tennessee National Guard, when in the discharge of their official duties and acting under orders requiring them to carry arms or weapons, may possess the weapons required by the orders.
- D. Civil officers of the United States in the discharge of their official duties may possess required weapons.
- E. Officers and soldiers of the militia and the National Guard, when called into actual service, may possess required weapons.
- F. POST-certified, active-duty law enforcement officers, whether on or off duty, may possess and carry their service firearm on institution property.

IV. Right to Search for Weapons

ETSU has the right to search for illegally possessed weapons in any area on the institution's premises, including, but not limited to, lockers, furniture, containers, drawers, equipment or other facilities, lunch boxes, brief cases, personal bags, personal toolboxes or tool kits, parking lots, ETSU vehicles and other

vehicles parked on the institution's premises. Such searches may only be conducted by law enforcement officers.

V. Sanctions

- A. Violation of the applicable laws regarding possession of firearms or other weapons on ETSU property shall be reported to the law enforcement agency or agencies having jurisdiction and may result in arrest and prosecution.
- B. Violation of this policy and/or the applicable laws regarding possession of firearms or other weapons on ETSU property shall result in disciplinary action, up to and including immediate termination of employment or expulsion from the institution. The violation may also result in appropriate criminal charges.
- C. ETSU shall not take any adverse employment or disciplinary action against an employee based solely on the fact that the person has carried a handgun on ETSU institution property in compliance with T.C.A. §39-17-1309(e)(9) and this policy or stored a firearm or firearm ammunition in a motor vehicle on institution property in compliance with T.C.A. §39-17-1313.

VI. Limitations of Liability

- A. Unless carrying a handgun is a requirement of the employee's job description, the carrying of a handgun as allowed by T.C.A. §39-17-1309(e)(9) is a personal choice of the employee and not a requirement of the employing institution. Consequently, an employee who carries a handgun on property owned, operated or controlled by ETSU is not:
 - (1) Acting in the course of or scope of their employment when carrying or using the handgun;
 - (2) Entitled to workers' compensation benefits under T.C.A. §9-8-307(a)(1)(K) for injuries arising from the carrying or use of a handgun; or
 - (3) Immune from personal liability with respect to use or carrying of a handgun under T.C.A. §9-8-307(h).
- B. ETSU is absolutely immune from claims for monetary damages arising solely from or related to an employee's use of, or failure to use, a handgun by an employee of that institution who has elected to carry a handgun under T.C.A. §39-17-1309(e)(9).

Sources T.C.A. §39-13-1309; T.C.A. §39-17-1313; T.C.A. §39-17-1351;
T.C.A. §39-17-1359; Public Chapter 806, 2016; Public Chapter 1061, 2016.

Related P-085, Workplace Violence Prevention

Exhibits Guide to Gun Laws on Campus & Notification Form