

WEAPONS ON NSHE PROPERTY

NRS 202.265 prohibits the possession of the following weapons “while on property of the Nevada System of Higher Education”:

An explosive or incendiary device; dirk, dagger or switchblade knife; nunchaku or trefoil blackjack or billy club or metal knuckles; pistol, revolver or other firearm; or any device used to mark any part of a person with paint or any other substance.

(Firearm, nunchaku, switchblade knife, trefoil and vehicle are defined in NSR 202.265(5). “Explosive or incendiary device” is defined in NRS 202.253(1)).

Violation of the law is a gross misdemeanor.

Prohibition does not apply to:

- Peace officer;
- School security guard; or
- Person having *written permission from the president* of a branch or facility of the Nevada System of Higher Education or the principal of the school or the person designated by a child care facility to give permission to carry or possess the weapon.

Permission to carry weapons on NSHE property may be obtained in accordance with NSHE Policy in Title 4, Ch. 1, Sec. 31 (copy attached).

CONCEALED FIREARMS

Nevada’s concealed weapons statutes are found in NRS 202.3653-369.

Applications for permits to carry a concealed firearm (revolvers and semiautomatic firearms) are submitted to sheriff of county in which a resident resides or any county for non-residents. (NRS 202.3657 (1) and (2)).

“Concealed” means “carried upon a person in such a manner as not to be discernible by ordinary observation.” (NRS 202.3653(1)).

Permit *shall be issued* to person who is “qualified to possess firearms,” and is:

- 21 years of age or older
- Not prohibited under NRS 202.360 (felons, fugitives, addicts)
- Demonstrates weapons competence—firearm safety course.

(NRS 202.3657(3)).

Permit *shall be denied* if any of the following apply:

- Outstanding arrest warrant
- Judicial declaration of incompetence or insanity
- Voluntary or involuntary commitment to mental health facility, within 5 years
- Habitual user of intoxicating liquor or controlled substance, and normal faculties impaired
- DUI conviction
- Convicted of misdemeanor involving threatened use or use of force, within 3 years
- Felony conviction
- Convicted of crime involving domestic violence, stalking or if subject to restraining order
- Currently on parole or probation (any crime)

- Subject to court requirements as condition of withholding conviction or suspended sentence for felony, within 5 years
 - False statement on application for permit or for renewal of permit.
- (NRS 202.3657(4)).

Permits *may be* denied or revoked if sworn statement received from adult (≥ 18) of facts establishing any of the above. (NRS 202.3657(5)).

Permit or processing of applications *shall* be suspended, if a person is charged with crime involving use or threat of violence which would preclude issuance of permit (suspension is pending final disposition of charges). (NRS 202.3657(6)).

Investigation by sheriff includes: Background check (to FBI for criminal history). (NRS 202.366)

Application process must be completed within 120 days. (NRS 202.366).

All records are confidential. (NRS 202.3662).

Judicial review is provided for denial of permit. (NRS 202.3663).

Permit and ID must be carried, and presented upon request of peace officer. (NRS 202.3667). (Civil penalty for violation-\$25.00).

Permittee is authorized to carry firearm in public buildings, *except*:

- Public airport
- Public school or child care facility
- Public building with metal detector or sign prohibiting firearms
- ***Property of NSHE (unless permission from president obtained)***

(NRS 202.3673).

Exceptions to above prohibition are: permittee judge in courthouse where presides or permittee specifically authorized to have firearm in courtroom; permittee prosecuting attorney on premises of public building; *permittee employees who work at the public building*; or permittee who has received written permission from person in control of public building. (NRS 202.3673(4)).

Other permittees: Qualified retired law enforcement officers (NRS 202.3678); temporary permits may be granted (NRS202.3687); holder of permit from another state on specific list of states (NRS 202.3688).

CONSTITUTIONAL PROVISIONS

The Nevada Constitution, in Article 1, Sec. 11(1), specifically addresses possession of “arms” for “lawful purposes”:

Every citizen has the right to keep and bear arms for security and defense, for lawful hunting and recreational use and for other lawful purposes.

The U.S. Constitution, Second Amendment provides:

A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

Board of Regents Handbook
Title 4, Chapter 1, Section 31. Possession of Weapons on NSHE Property

1. INTRODUCTION

NSHE institutions are institutions of higher learning devoted to their missions of public education. NSHE is committed to providing an orderly academic environment for learning that promotes the acquisition of knowledge and advances the free exchange of ideas. The preservation of this educational environment is an important objective for the NSHE and its institutions.

Many students entering NSHE institutions are under 18 years of age, and pre-school age children, elementary school children and high school students attend programs or classes on NSHE campuses. Medical and dental patients of all ages are also seen on NSHE campuses. Members of the public often attend events on institution campuses.

The United States Supreme Court has recognized that schools are sensitive places where prohibitions on the possession of firearms are permitted.³ The statutory prohibition of weapons, including firearms on campus is longstanding. The prohibition contributes to the welcoming and open nature of the NSHE institutions and promotes an atmosphere conducive to learning.

³ *District of Columbia v. Heller*, 554 U.S. 570, 626-7 and 626-7, n. 26 (2008).

Nevada law provides authority for NSHE to identify certain circumstances when weapons and/or concealed firearms may be permitted on its premises. This policy sets forth the circumstances and processes required to be followed for a person to obtain permission to carry a weapon or firearm on NSHE campuses.

2. STATUTORY PROHIBITIONS OF WEAPONS/FIREARMS ON CAMPUS

Nevada statutes prohibit the possession of certain weapons, including firearms, on NSHE property. NRS 202.265 provides in pertinent part as follows:

NRS 202.265 Possession of dangerous weapon on property or in vehicle of school or child care facility; penalty; exceptions. Rev. 254 (09/12) Title 4, Chapter 1, Page 27

1. Except as otherwise provided in this section, a person shall not carry or possess while on the property of the Nevada System of Higher Education, a private or public school or child care facility, or while in a vehicle of a private or public school or child care facility:

- (a) An explosive or incendiary device;
- (b) A dirk, dagger or switchblade knife;
- (c) A nunchaku or trefoil;
- (d) A blackjack or billy club or metal knuckles;
- (e) A pistol, revolver or other firearm; or
- (f) Any device used to mark any part of a person with paint or any other substance.

2. Any person who violates subsection 1 is guilty of a gross misdemeanor.

3. This section does not prohibit the possession of a weapon listed in subsection 1 on the property of:

(a) A private or public school or child care facility by a:

- (1) Peace officer;
- (2) School security guard; or
- (3) Person having written permission from the president of a branch or facility of the Nevada System of Higher Education or the principal of the school or the person designated by a child care facility to give permission to carry or possess the weapon.

4. For the purposes of this section:

- (a) "Child care facility" means any child care facility that is licensed pursuant to chapter 432A of NRS or licensed by a city or county.
- (b) "Firearm" includes any device from which a metallic projectile, including any ball bearing or pellet, may be expelled by means of spring, gas, air or other force.
- (c) "Nunchaku" has the meaning ascribed to it in NRS 202.350.
- (d) "Switchblade knife" has the meaning ascribed to it in NRS 202.350.
- (e) "Trefoil" has the meaning ascribed to it in NRS 202.350.
- (f) "Vehicle" has the meaning ascribed to "school bus" in NRS 484A.230.

Individuals who have been granted concealed firearms permits in Nevada are still prohibited from carrying a concealed firearm on NSHE property, unless permission is obtained pursuant to NRS 202.265. In this regard, NRS 202.3673(3)(a) provides:

NRS 202.3673 Permittee authorized to carry concealed firearm while on premises of public building; exceptions; penalty.

- . . .
3. A permittee shall not carry a concealed firearm while the permittee is on the premises of:
- (a) A public building that is located on the property of a public school or a child care facility or the property of the Nevada System of Higher Education, unless the permittee has obtained written permission to carry a concealed firearm while he or she is on the premises of the public building pursuant to subparagraph (3) of paragraph (a) of subsection 3 of NRS 202.265.Rev. 254 (09/12) Title 4, Chapter 1, Page 28

3. WRITTEN REQUEST FOR PERMISSION TO CARRY WEAPON ON NSHE PROPERTY

a. General Rule: An individual seeking permission to carry a weapon⁴, as defined in NRS 202.265, while on NSHE property must make a written request to the president of the NSHE institution on whose campus the applicant seeks to carry a weapon. This requirement to make a written request to the president also applies to individuals who have been granted permits to carry a concealed firearm in Nevada and applies to all firearms, whether or not they are loaded or capable of firing. The individual requesting permission must not bring a weapon onto the institution property unless and until permission in writing has been granted by the president. The written request must set forth the reasons for the request and address any applicable factors identified in Section 4 below.

⁴The use of kitchen knives and similar utensils for food preparation or consumption; scalpels or other cutting instruments used by physicians, dentists, and researchers, etc., and saws or other shearing devices used by NSHE facilities employees are not prohibited by this policy.

b. Exception for Certain Peace Officers and School Security Guards: The requirement for written permission does not apply to Nevada peace officers and school security guards as defined in NRS 289.150-NRS 289.360, and other state and federal law enforcement personnel, who are required to carry weapons while on duty or while off duty.

c. Personal Security/Bodyguards. Individuals, who are employed as personal security or bodyguards and who have been granted a permit to carry a concealed firearm, must submit a request and obtain approval to carry a weapon in accordance with this policy. The institution may, but is not required to, expedite such requests.

d. Other Uses Not Permitted without Approval: The use of weapon(s) for educational, recreational or training purposes on NSHE property must also be approved in writing by the president pursuant to this policy.

4. PRESIDENT'S DECISION

a. Factors for Consideration of Request: An NSHE institution president who receives a written request from an individual to carry a concealed weapon on the campus must consider, investigate, and evaluate each request on a case by case basis, giving individual consideration to each specific request, and must make a determination on each request according to a need standard. The individual need to carry a weapon shall be determined by the president in consideration of, but not limited to:

1. a specific risk of attack presented by an actual threat;
2. a general risk of attack presented by the nature of the individual's current or former profession, as established by actual evidence of increased risk of attack on such individuals; or
3. a legitimate educational or business purpose.

The president's consideration of the request must include an evaluation of the request by and a recommendation from the institution's law enforcement or security office. In addition, the president's consideration of the request, may also include, but is not be limited to:

1. an interview of the applicant;
2. a background check of the applicant;
3. a review of the applicant's permit to carry a concealed firearm;

Rev. 254 (09/12) Title 4, Chapter 1, Page 29

4. an evaluation by the appropriate institution personnel of whether other means exist to alleviate the perceived risk of attack or educational or business purpose;

5. the individual's training with regard to the particular weapon;

b. Communication of President's Decision: The president's written decision should be issued within 10 working days after receipt of request, but this time period may be extended for a reasonable time period for additional investigation of the request. The president shall inform the individual in writing of the determination.

1. Denial of Request: In the event of a denial of a request, the president shall provide a written explanation of the determination.

2. Approval of Request: In the event of an approval of a request, the president shall specify the conditions, if any, under which the person may carry a concealed weapon, including but not limited to geographic or time restrictions.

5. RECONSIDERATION OF DENIAL. An individual whose written request to carry a weapon on campus has been denied may request reconsideration of the denial by submitting to the president a written request, including a response to the president's determination that the applicant did not demonstrate need or a legitimate educational or business purpose, and any additional evidence of need or of legitimate educational or business purpose. The president's written decision should be issued within 10 working days after receipt of the request for reconsideration, but this time period may be extended for a reasonable time period for additional investigation of the request. The president shall review the request, consider the response and additional evidence, if any. The president shall provide a written determination regarding the reconsideration request and the president's decision on the request for reconsideration is final and not subject to appeal.

6. CHANCELLOR'S APPROVAL REQUIRED AT SYSTEM LOCATIONS. Requests for permission to carry weapons at System Administration offices that are not located on the campus of an institution, must be sent to the Chancellor. The procedures set forth in Sections 3-4 above apply to the Chancellor's review of such requests.

7. NO AUTOMATIC APPROVAL. The failure of the president or the chancellor to issue the written decision on a request for permission to carry a weapon or on a request for reconsideration within the 10 working day time period set forth in Section 4 and 5 above, shall not constitute the granting of permission.

(B/R 9/12)