

Policies of Colorado State University-Pueblo	Chapter # - TBD
01.100 Weapons Policy	Chapter Name – TBD

1. Policy Statement.

The Board of Governors of the Colorado State University System and Colorado State University-Pueblo (the “University”) recognizes that the possession, use, or display of Weapons on Campus should be subject to reasonable control to manage the increased risks associated with having Weapons on Campus, which is consistent with the best practices of other colleges and universities. Some of the data and analysis supporting those best practices are contained in the position statement dated August 12, 2008, by the Board of Directors of the International Association of Campus Law Enforcement Administrators, Inc. (“IACLEA”). According to that statement, the presence of students carrying concealed weapons would not reduce violence on campuses and that having such weapons may dramatically increase violence on campus arising from (a) the potential for accidental discharge or misuse of firearms at on-campus parties or student gatherings, (b) the potential for guns to be used as a means to settle disputes, and (c) that police officers responding to a situation involving an active shooter may not be able to distinguish between the shooter and others with firearms. The University concurs with IACLEA’s position statement and believes that safety on Campus will be improved by reasonably controlling Weapons.

All University Employees, including faculty and staff, Students, and Visitors/Guests are prohibited from possessing, using, or displaying Weapons on Campus without written authorization from the President of the University, whether or not a federal or state permit to possess the Weapon has been issued to the possessor.

2. Application of Policy.

The policy applies to all Employees, Students, and Visitors/Guests on Campus property, which includes, but is not limited to, buildings, open space, residence halls, parking lots, roadways, sidewalks and vehicles.

3. Exceptions.

Certified Law Enforcement Officers may wear their service firearm and carry any other weapon issued by their respective law enforcement agency or department while on Campus in accordance with federal, state, local law and their department policy.

Persons in the military in performance of their official duties, to the extent they are legally permitted to possess Weapons in the jurisdiction in which they are allocated and only in accordance with their own policies, may do so on the Campus.

The President of the University has the discretion to grant written permission to an individual to carry, possess, use, or display a Weapon on Campus for educational purposes or for other special circumstances. Individuals seeking such an exemption must submit a written request to the Environmental Health and Safety Director with the following information:

1. Name and contact information of person requesting exception;
2. Detailed reason for request (including reason other security measures are insufficient);
3. Exact description of Weapon under consideration and relevant permits;
4. Location where the Weapon will be present and for how long; and
5. What security measures will be taken to ensure safety.

A request for an exemption to carry a concealed Weapon on Campus must include the five categories of information listed above, and must also contain a detailed factual basis demonstrating the following:

- (a) The applicant possesses a valid permit to carry a concealed Weapon in Pueblo County; and
- (b) There is a specific, serious and on-going threat to the applicant's safety on Campus that can be reduced by carrying a concealed Weapon and is supported by a court order of protection, a written recommendation from another law enforcement agency or other similar document.

The Environmental Health and Safety Director, in consultation with the Pueblo Sheriff's Department and the appropriate member of the Senior Leadership Team, will make a recommendation to the President. Any written application seeking an exemption that is granted by the President is valid only for the time period specified therein or for one year from the date of issue, whichever is shorter.

All decisions by the President are final.

The President also has the discretion to grant written permission to an individual to store the applicant's handgun in the applicant's vehicle while on Campus, provided that (a) the applicant has a valid permit to carry a concealed Weapon in Pueblo County, (b) the handgun remains in the vehicle at all times, and (c) when the applicant is not in the vehicle, the handgun must be kept in a locked compartment within the locked vehicle.

Individuals seeking such a storage exemption must submit a written request to the Environmental Health and Safety Director with the following information:

1. Name and contact information of person requesting exception;
2. Proof that the applicant has a valid permit to carry a concealed Weapon in Pueblo County;
3. Exact description of the handgun under consideration; and

4. What security measures will be taken to ensure safety.

The Environmental Health and Safety Director, in consultation with the Pueblo Sheriff's Department and the appropriate member of the Senior Leadership Team, will make a recommendation to the President. Any written application seeking a storage exemption that is granted by the President is valid only for the time period specified therein or for one year from the date of issue, whichever is shorter.

All decisions by the President are final.

4. Definitions.

1. Campus. "Campus" means all property owned by the University, including the entire premises depicted in the map of the Campus.
2. Certified Law Enforcement Officer. "Certified Law Enforcement Officer" means a person who (a) is an employee of a federal, state or local governmental agency, (b) authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for any violation of law, and (c) is authorized by the agency to carry a Weapon.
3. Employee. "Employee" means any individual who is employed at the University in any capacity and includes faculty, staff, hourly workers, and other individuals whether they are serving in a full or part-time capacity.
4. Student. "Student" means any individual who is enrolled or registered to attend classes regardless of full or part-time status.
5. Visitor/Guest. "Visitor/Guest" refers to all individuals who may come to the campus in an official or unofficial capacity, whether invited or not, to attend events, volunteer, meet with members of the University community on a temporary basis, or any other reason.
6. Weapons. "Weapons" for the purposes of this policy shall include:
 - a. All items defined as a firearm or weapon in C.R.S. § 18-12-101, (attached hereto and incorporated by reference) including a "Ballistic knife," "Blackjack," "Bomb," "Firearm silencer," "Gas gun," "Gravity knife," "Handgun," "Knife," "Machine gun," "Short rifle," "Short shotgun," and "Switchblade knife," (except that "stun guns," tazers, defensive sprays such as pepper spray, and similar, handheld defensive weapons that do not discharge a projectile shall not be included.)
 - b. Shotguns, rifles, and handguns.
 - c. Explosives, such as grenades, blasting caps, detonators, timers, incendiary wire and other containers containing explosive substances including fireworks and black powder.

This definition does not include weapons that are authorized, designated, and used in accordance with University policies for operational, academic, instructional and/or recreational purposes.

5. Procedures and Responsibilities.

The University is responsible for enforcement of this policy and will take into account the facts and circumstances of each situation, including actions taken in self-defense.

Any member of the University community, including Employees and Students, who violates this policy may be subject to disciplinary sanctions under applicable University policies, including the Student Conduct Code and the Academic Faculty and Administrative Professional Manual.

Any Visitor/Guest who violates this policy shall be notified of the violation by the University or the Pueblo Sheriff's Department and asked to comply. If the individual does not comply, the individual will be referred to the appropriate legal authorities, including the Pueblo Sheriff's Department, and may be removed from Campus and may be subject to legal penalties, including criminal trespass provisions under applicable Colorado Revised Statutes.

The University expects all members and guests to help maintain safety and security at the institution and at University sponsored events. All Employees, Students, and Visitors/Guests who have knowledge of Weapons on Campus have an obligation to report that knowledge promptly to the University or the Pueblo Sheriff's Department.

6. References and Cross-references

Student Code of Conduct

Academic Faculty and Administrative Professional Manual

Approved:

Effective:

Revised:

ARTICLE 12

Offenses Relating to Firearms
and Weapons

PART 1

FIREARMS AND WEAPONS - GENERAL

- 18-12-101. Definitions - peace officer affirmative defense.
- 18-12-102. Possessing a dangerous or illegal weapon - affirmative defense.
- 18-12-103. Possession of a defaced firearm.
- 18-12-103.5. Defaced firearms - contraband - destruction.
- 18-12-104. Defacing a firearm.
- 18-12-105. Unlawfully carrying a concealed weapon - unlawful possession of weapons.
- 18-12-105.1. Permits for concealed weapons - liability. (Repealed)
- 18-12-105.5. Unlawfully carrying a weapon - unlawful possession of weapons - school, college, or university grounds.
- 18-12-105.6. Limitation on local ordinances regarding firearms in private vehicles.
- 18-12-106. Prohibited use of weapons.
- 18-12-106.5. Use of stun guns.
- 18-12-107. Penalty for second offense.
- 18-12-107.5. Illegal discharge of a firearm - penalty.
- 18-12-108. Possession of weapons by previous offenders.
- 18-12-108.5. Possession of handguns by juveniles - prohibited - exceptions - penalty.
- 18-12-108.7. Unlawfully providing or permitting a juvenile to possess a handgun - penalty - unlawfully providing a firearm other than a handgun to a juvenile - penalty.

18-12-109.

Possession, use, or removal of explosives or incendiary devices - possession of components thereof - chemical, biological, and nuclear weapons - persons exempt - hoaxes.

18-12-110.

Forfeiture of firearms.

18-12-111.

Unlawful purchase of firearms.

PART 2

PERMITS TO CARRY CONCEALED
HANDGUNS

18-12-201.

Legislative declaration.

18-12-202.

Definitions.

18-12-203.

Criteria for obtaining a permit.

18-12-204.

Permit contents - validity - carrying requirements.

18-12-205.

Sheriff - application - procedure - background check.

18-12-206.

Sheriff - issuance or denial of permits - report.

18-12-207.

Judicial review - permit denial - permit suspension - permit revocation.

18-12-208.

Colorado bureau of investigation - duties.

18-12-209.

Issuance by sheriffs of temporary emergency permits.

18-12-210.

Maintenance of permit - address change - invalidity of permit.

18-12-211.

Renewal of permits.

18-12-212.

Exemption.

18-12-213.

Reciprocity.

18-12-214.

Authority granted by permit - carrying restrictions.

18-12-215.

Immunity.

18-12-216.

Permits issued prior to May 17, 2003.

PART 1

FIREARMS AND WEAPONS - GENERAL

18-12-101. Definitions - peace officer affirmative defense. (1) As used in this article, unless the context otherwise requires:

(a) "Adult" means any person eighteen years of age or older.

(a.3) "Ballistic knife" means any knife that has a blade which is forcefully projected from the handle by means of a spring-loaded device or explosive charge.

(a.5) "Blackjack" includes any billy, sand club, sandbag, or other hand-operated striking weapon consisting, at the striking end, of an encased piece of lead or other heavy substance and, at the handle end, a strap or springy shaft which increases the force of impact.

(b) "Bomb" means any explosive or incendiary device or molotov cocktail as defined in section 9-7-103, C.R.S., or any chemical device which causes or can cause an explosion, which is not specifically designed for lawful and legitimate use in the hands of its possessor.

(c) "Firearm silencer" means any instrument, attachment, weapon, or appliance for causing the firing of any gun, revolver, pistol, or other firearm to be silent or intended to lessen or muffle the noise of the firing of any such weapon.

(d) "Gas gun" means a device designed for projecting gas-filled projectiles which release their contents after having been projected from the device and includes projectiles designed for use in such a device.

(e) "Gravity knife" means any knife that has a blade released from the handle or sheath thereof by the force of gravity or the application of centrifugal force.

(e.5) "Handgun" means a pistol, revolver, or other firearm of any description, loaded or unloaded, from which any shot, bullet, or other missile can be discharged, the length of the barrel of which, not including any revolving, detachable, or magazine breech, does not exceed twelve inches.

(e.7) "Juvenile" means any person under the age of eighteen years.

(f) "Knife" means any dagger, dirk, knife, or stiletto with a blade over three and one-half inches in length, or any other dangerous instrument capable of inflicting cutting, stabbing, or tearing wounds, but does not include a hunting or fishing knife carried for sports use. The issue that a knife is a hunting or fishing knife must be raised as an affirmative defense.

(g) "Machine gun" means any firearm, whatever its size and usual designation, that shoots automatically more than one shot, without manual reloading, by a single function of the trigger.

(h) "Short rifle" means a rifle having a barrel less than sixteen inches long or an overall length of less than twenty-six inches.

(i) "Short shotgun" means a shotgun having a barrel or barrels less than eighteen inches long or an overall length of less than twenty-six inches.

(i.5) "Stun gun" means a device capable of temporarily immobilizing a person by the infliction of an electrical charge.

(j) "Switchblade knife" means any knife, the blade of which opens automatically by hand pressure applied to a button, spring, or other device in its handle.

(2) It shall be an affirmative defense to any provision of this article that the act was committed by a peace officer in the lawful discharge of his duties.

Source: L. 71: R&RE, p. 481, § 1. C.R.S. 1963: § 40-12-101. L. 73: p. 540, § 12. L. 87: (1)(a) R&RE and (1)(a.5) and (1)(i.5) added, p. 674, §§ 1, 2, effective May 16. L. 91: (1)(b) amended, p. 407, § 17, effective June 6. L. 93, 1st Ex. Sess.: (1)(a) amended and (1)(a.3), (1)(e.5), and (1)(e.7) added, p. 1, § 1, effective September 13. L. 2007: (1)(e) amended, p. 1688, § 6, effective July 1.

Cross references: For affirmative defenses generally, see §§ 18-1-407, 18-1-710, and 18-1-805.

ANNOTATION

Definition of "knife" in subsection (1)(f) is not void for vagueness or overbreadth. Where defendant possessed a screwdriver with specific intent to use it as a weapon, elements of crime defined in § 18-12-108 were present. *People v. Gross*, 830 P.2d 933 (Colo. 1992).

Defendant's intent to use an object as a weapon is not established by the object's appearance alone, even if the appearance demonstrates that its primary use is as a weapon; this test does not follow *Gross* and is contrary to the plain language of the concealed weapons statute. *A.P.E. v. People*, 20 P.3d 1179 (Colo. 2001).

The definition of "knife" in subsection (1)(f) is sufficiently specific to give fair warning of the proscribed conduct and is therefore constitutional. In applying the definition under § 18-12-108, the prosecution must prove that one of the intended uses of the instrument by the defendant was as a weapon. *People v. Gross*, 830 P.2d 933 (Colo. 1992).

As the term "knife" is not specifically defined in the deadly weapons statute, the meaning of "knife" anywhere it is used in this article is specifically limited by the definition contained in subsection (1)(f) regardless of

cross reference to the broader deadly weapons statute. People ex rel. J.W.T., 93 P.3d 580 (Colo. App. 2004).

Applied in Miller v. District Court, 193 Colo. 404, 566 P.2d 1063 (1977).

18-12-102. Possessing a dangerous or illegal weapon - affirmative defense. (1) As used in this section, the term "dangerous weapon" means a firearm silencer, machine gun, short shotgun, short rifle, or ballistic knife.

(2) As used in this section, the term "illegal weapon" means a blackjack, gas gun, metallic knuckles, gravity knife, or switchblade knife.

(3) A person who knowingly possesses a dangerous weapon commits a class 5 felony. Each subsequent violation of this subsection (3) by the same person shall be a class 4 felony.

(4) A person who knowingly possesses an illegal weapon commits a class 1 misdemeanor.

(5) It shall be an affirmative defense to the charge of possessing a dangerous weapon, or to the charge of possessing an illegal weapon, that the person so accused was a peace officer or member of the armed forces of the United States or Colorado National Guard acting in the lawful discharge of his duties, or that said person has a valid permit and license for possession of such weapon.

Source: L. 71: R&RE, p. 482, § 1. C.R.S. 1963: § 40-12-102. L. 72: p. 276, § 9. L. 73: p. 540, § 13. L. 79: Entire section R&RE, p. 729, § 10, effective July 1. L. 87: (1) amended, p. 674, § 3, effective May 16.

Cross references: For affirmative defenses generally, see §§ 18-1-407, 18-1-710, and 18-1-805.

ANNOTATION

Am. Jur.2d. See 79 Am. Jur.2d, Weapons and Firearms, §§ 4-8, 28.

C.J.S. See 94 C.J.S., Weapons, §§ 3-10.

Law reviews. For article, "Mens Rea and the Colorado Criminal Code", see 52 U. Colo. L. Rev. 167 (1981). For article, "Pronouncements of the U.S. Supreme Court Relating to the Criminal Law Field: 1985-1986", which discusses a case relating to unloaded guns as dangerous weapons, see 15 Colo. Law. 1612 (1986).

The prohibition against possession of illegal weapons in subsection (4) is neither factually void for vagueness as to the prohibition of possession of "metallic knuckles", nor unconstitutionally vague as applied to the defendant. People ex rel. A.P.E., 988 P.2d 172 (Colo. App. 1999), rev'd on other grounds, 20 P.3d 1179 (Colo. 2001).

Possession of an illegal weapon under subsection (4) is a lesser included offense of possession of weapon by a previous offender under § 18-12-108 (1) when the same weapon is alleged in each charge. People v. Brown, 119 P.3d 486 (Colo. App. 2004).

Whether inoperable weapon is a dangerous one is question of fact. When a prosecution under this section involves a weapon that is

inoperable for some reason, whether the weapon is a dangerous one is a question of fact. In considering this question, the trier of fact must weigh a variety of factors, including the time required, the changes that have to be made in the weapon, the parts which have to be inserted, and all the other attendant factors and circumstances. People v. Vigil, 758 P.2d 670 (Colo. 1988).

"A firecracker in a beer bottle" could constitute a molotov cocktail, ergo a bomb, which under former section was an illegal weapon. Miller v. District Court, 193 Colo. 404, 566 P.2d 1063 (1977).

Defendant could not be convicted of carrying a concealed weapon without the prosecution proving that defendant intended to use this short-bladed knife as a weapon. While the characteristics of an instrument may be an important factor in determining the intended purpose of an instrument, the language of the concealed weapons statute and established precedent establishes that a knife's design does not, by itself, prove that the person carrying it intended to use it as a weapon. A.P.E. v. People, 20 P.3d 1179 (Colo. 2001).

Applied in People v. Taylor, 647 P.2d 682 (Colo. 1982).

18-12-103. Possession of a defaced firearm. A person commits a class 1 misdemeanor if he knowingly and unlawfully possesses a firearm, the manufacturer's serial number of which, or other distinguishing number or identification mark, has been removed, defaced, altered, or destroyed, except by normal wear and tear.