STATE OF KANSAS
OFFICE OF THE ATTORNEY GENERAL

DEREK SCHMIDT
ATTORNEY GENERAL

MEMORIAL HALL
120 SW 10TH AVE., 2ND FLOOR
TOPEKA, KS 66612-1597
(785) 296-2215 • FAX (785) 296-6296
WWW.AG.KS.GOV

October 28, 2016

ATTORNEY GENERAL OPINION NO. 2016-17

The Honorable John Bradford
State Representative, 40th District
125 Rock Creek Loop
Lansing, KS 66043

Re: Cities and Municipalities–Miscellaneous Provisions–Knives and Knife Making Components; Regulation by Municipality, Limitations

State Departments; Public Officers and Employees–Firearms–Personal and Family Protection Act; Restrictions on Carrying a Concealed Handgun; Concealed Handguns in Public Buildings

Synopsis: A state agency may adopt personnel policies to require an employee to disclose whether the employee is carrying a concealed handgun while in the workplace or while otherwise engaged in work duties. A state agency may restrict the type of knife that an employee may carry while in the workplace or while otherwise engaged in work duties. Cited herein: K.S.A. 2014 Supp. 75-7c03; K.S.A. 2015 Supp. 75-7c10; K.S.A. 2016 Supp. 12-16,124; 12-16,134; 21-6302; 21-6304; 75-7c01; 75-7c10; 75-7c17; 75-7c20; 75-7c23; 75-2935; K.S.A. 75-2949f; K.S.A. 2016 Supp. 75-6102.

* * *

Dear Representative Bradford:

As the State Representative for the 40th District, you ask for our opinion on two questions concerning new workplace rules adopted by a state governmental agency. Your questions are: (1) whether a state agency may require its employees to answer yes or no when asked by a supervisor whether the employee is carrying a concealed handgun; and (2) whether a state agency may prohibit its employees from carrying a knife with a blade over four inches in length.

We were not provided with a copy of the policy in question, so our opinion is based upon the policy as described in your request.

Regarding your first question, there is nothing in state law that would prohibit a *state* agency from requiring its employees to disclose whether they are carrying a concealed handgun at work. The Personal and Family Protection Act (PFPA),[1] commonly known as the concealed carry law, is the only law that limits the ability of state agencies to regulate concealed carry by employees. The PFPA bars a state agency from "prohibit[ing] an employee from carrying a concealed handgun into the employee's work place unless the building has adequate security measures at all public entrances to ensure that no weapons are permitted to be carried into such building and the building is conspicuously posted in accordance with K.S.A. 75-7c10, and amendments thereto."[2]

Prior to July 1, 2016, the PFPA also provided:

> Nothing in this act shall be construed to prevent . . . any public or private employer from restricting or prohibiting by personnel policies persons from carrying a concealed handgun while on the premises of the employer's business or while engaged in the duties of the person's employment by the employer . . . .[3]

The 2016 amendments to the PFPA removed the above reference to public employers and also added the following provision:

> No public employer shall restrict or otherwise prohibit by personnel policies any employee, who is legally qualified, from carrying any concealed handgun while engaged in the duties of such employee's employment outside of such employer's place of business, including while in a means of conveyance.[4]

These amendments mean that as of July 1, 2016, a public employer may not use personnel policies to restrict or prohibit legally qualified[5] employees from carrying a concealed handgun at work or while engaged in work duties.[6] However, merely

---

[1] K.S.A. 2016 Supp. 75-7c01 *et seq*.

[2] K.S.A. 2016 Supp. 75-7c20(c). "'Adequate security measures' means "the use of electronic equipment and armed personnel at public entrances to detect and restrict the carrying of any weapons into the state or municipal building, or any public area thereof, including, but not limited to, metal detectors, metal detector wands or any other equipment used for similar purposes to ensure that weapons are not permitted to be carried into such building or public area by members of the public." K.S.A. 2016 Supp. 75-7c20(m)(1).

[3] K.S.A. 2015 Supp. 75-7c10(b)(1).

[4] K.S.A. 2016 Supp. 75-7c10(e).

[5] *See, e.g.*, K.S.A. 2016 Supp. 21-6302(a)(4) (prohibiting concealed carry by a person under 21 years of age "except when on such person's land or in such person's abode or fixed place of business") and K.S.A. 2016 Supp. 21-6304 (criminal possession of a firearm by a convicted felon).

[6] A state agency may still prohibit concealed carry by employees inside the agency's buildings by installing adequate security measures at all public access entrances and posting the building with certain signage. K.S.A. 2016 Supp. 75-7c20(c).

requiring employees to disclose, if asked by a supervisor, whether they are carrying a concealed handgun at work is not "restricting or prohibiting" concealed carry. We therefore believe that these amendments to the PFPA did not extinguish the authority of a state agency to require such a disclosure.

By contrast, Kansas law expressly prohibits a *municipality* from requiring its employees to disclose whether they possess a valid concealed carry license.[7] Municipalities are also barred from regulating concealed carry beyond the methods expressly authorized by the legislature,[8] and from regulating the possession or transportation of firearms in general.[9] However, because a state agency is not a municipality,[10] those statutes do not apply to the state government or its agencies.

Prior to July 1, 2015, the PFPA required that "[o]n demand of a law enforcement officer, the licensee shall display the license to carry concealed handguns and proper identification."[11] The legislature removed that language in 2015 as part of Senate Bill 45, the legislation that allowed any person at least 21 years of age who may lawfully possess firearms to carry a concealed handgun without a license.[12] It has been suggested that this change in the law was intended to protect the personal privacy of persons who choose to carry concealed handguns. It has also been suggested that in the absence of a statute requiring a person to disclose whether he or she is carrying a concealed handgun, no state employee may be required to make such a disclosure to a supervisor. Regardless of whether the legislature *intended* to protect the privacy of state employees in such a manner, there is nothing in Kansas law that offers such protection.

In considering current Kansas law, we are guided by the rules of statutory interpretation established by the Kansas Supreme Court:

> The most fundamental rule of statutory interpretation and construction is that the intent of the legislature governs if that intent can be ascertained. We first attempt to ascertain legislative intent through the statutory language enacted, giving common words their ordinary meanings. When a statute is plain and unambiguous, we do not speculate as to the legislative intent behind it and will not read into the statute something not readily found in it. . . . We cannot delete provisions or supply omissions in a statute. No matter what the legislature may have really intended to do, if it

---

[7] K.S.A. 2016 Supp. 75-7c23(a) ("No employee of a municipality shall be required to disclose to such person's employer the fact that such employee possesses a valid license to carry a concealed handgun.").

[8] K.S.A. 2016 Supp. 75-7c17(a) ("No city, county or other political subdivision of this state shall regulate, restrict or prohibit the carrying of concealed handguns by individuals except as provided in K.S.A. 21-6301, 21-6302, 21-6304, 21-6309, 75-7c10 or 75-7c20, and amendments thereto, or K.S.A. 21-4218(f), prior to its repeal.").

[9] K.S.A. 2016 Supp. 12-16,124(a).

[10] Municipality means "any county, township, city, school district or other political or taxing subdivision of the state, or any agency, authority, institution or other instrumentality thereof." K.S.A. 2016 Supp. 75-7c23(b) and 75-6102(b).

[11] K.S.A. 2014 Supp. 75-7c03(b).

[12] L. 2015, Ch. 16, § 8.

> did not in fact do it, under any reasonable interpretation of the language used, the defect is one that the legislature alone can correct.[13]

The legislature has demonstrated that it knows how to place limitations on local governmental entities concerning the regulation of concealed carry.[14] However, to date the legislature has not acted to place those limitations on state governmental agencies. The only provisions of Kansas law that limit the authority of state agencies to regulate concealed carry are found in the PFPA,[15] and none of those provisions prohibit a state agency from requiring its employees to disclose whether they are carrying a concealed handgun. Following the rules of statutory interpretation described above, we believe that even if the legislature *intended* to protect state employees from being required to disclose whether they are carrying a concealed handgun, it did not in fact do so. We therefore opine that Kansas law does not prevent a state agency from requiring an employee to disclose whether he or she is carrying a concealed handgun, regardless of whether that employee has a valid concealed carry license.

We further note that Kansas employment law does not protect a state employee from being required to disclose whether he or she is carrying a concealed handgun. "Kansas historically adheres to the employment-at-will doctrine, which holds that employees and employers may terminate an employment relationship at any time, for any reason, unless there is an express or implied contract governing the employment's duration."[16]

With respect to the state government, "unclassified" employees are at-will employees generally subject to dismissal at any time and for any reason, while "classified" employees fall within the protections of the civil service system.[17] The civil service system does not, however, prohibit a state agency from requiring a classified employee to disclose whether he or she is carrying a concealed handgun. In fact, the civil service system permits a state agency to dismiss, demote or suspend a classified employee for "possession of unauthorized firearms or other lethal weapons while on the job"[18] or "refusal to accept a reasonable and proper assignment from an authorized supervisor (insubordination)."[19] Read together, these statutes would seem to authorize a supervisor to ask questions of a classified employee to determine whether the

---

[13] *State v. Prine*, 297 Kan. 460, 474-75 (2013) (internal citations omitted).
[14] *See, e.g.,* K.S.A. 2016 Supp. 12-16,124(a) and 75-7c17(a).
[15] *See, e.g.*, K.S.A. 2016 Supp. 75-7c20(a), which generally requires concealed carry to be permitted inside state government buildings.
[16] *Campbell v. Husky Hogs, L.L.C.*, 292 Kan. 225, 227 (2011).
[17] K.S.A. 2016 Supp. 75-2935(1) and (2). *See also* K.S.A. 75-2949 through 75-2949f (describing procedures that must be followed in order to dismiss, demote or suspend a permanent employee in the classified service).
[18] K.S.A. 75-2949f(j). The term "unauthorized firearms" dates from the original legislation enacted in 1981, and is not defined in statute. *See* L. 1981, Ch. 334, § 5. However, a state agency's policy concerning "unauthorized firearms" must be consistent with the PFPA with respect to the carrying of concealed handguns by agency employees. For example, K.S.A. 2016 Supp. 75-7c10(e) protects the right of a state employee to carry a *concealed handgun* while engaged in work duties outside the state agency's place of business, but does not give a state employee the right to *openly* carry a *rifle* while engaged in work duties.
[19] K.S.A. 75-2949f(l).

employee is in possession of an unauthorized firearm, and refusal to answer such questions could be deemed insubordination.

In summary, we believe the answer to your first question is yes because there is nothing in state law that prohibits a state agency from requiring its employees to disclose whether they are carrying a concealed handgun.

Your second question asks whether a state agency may prohibit its employees from carrying a knife with a blade over four inches in length while at work or while engaged in work duties. Kansas law prohibits a *municipality* from enacting or enforcing "any ordinance, resolution, regulation or tax relating to the transportation, possession, carrying, sale, transfer, purchase, gift, devise, licensing, registration or use of a knife or knife making components,"[20] but this prohibition does not apply to the state government.[21]

We believe our analysis above regarding concealed carry by state employees also applies to the carrying of knives by state employees. There is nothing in Kansas law that limits the ability of a state agency to establish personnel policies concerning the carrying of knives by employees while engaged in work duties. We therefore believe that the answer to your second question is yes.

Sincerely,

/s/Derek Schmidt

Derek Schmidt
Attorney General

/s/Sarah Fertig

Sarah Fertig
Assistant Attorney General

DS:AA:SF:sb

---

20 K.S.A. 2016 Supp. 12-16,134(a).
21 As used in K.S.A. 2016 Supp. 12-16,134(a), "municipality" means "any county, township, city . . . or other political or taxing subdivision of the state, or any agency, authority, institution or other instrumentality thereof." K.S.A. 2016 Supp. 12-16,134(e)(2) and 75-6102(b).