

# WEST VIRGINIA STATE UNIVERSITY

## BOARD OF GOVERNORS

### BOG Policy #70

#### DEADLY WEAPONS, DANGEROUS OBJECTS, & W. VA. CAMPUS SELF-DEFENSE ACT

##### SECTION 1. General.

- 1.1. Scope: This policy provides the University's guidelines regarding Deadly Weapons and Dangerous Objects on WVSU Property, and the University's implementation of W. Va. Code § 18B-4-5b, the Campus Self-defense Act, which, subject to certain limited exceptions set forth below, allows for carrying of a Concealed Pistol or Revolver on campus by those holding a current and valid License to carry a Concealed Deadly Weapon.
- 1.2. Authority: W. Va. Code § 18B-2A-4; W. Va. Code § 18B-1-2, 6; W. Va. Code § 61-7-14, W. Va. Business Liability Protection Act; W. Va. Code § 18B-4-5b, Campus Self-defense Act.
- 1.3. Application: This policy applies to the West Virginia State University campus, and areas of the campus and buildings under the University's custodial possession but does not include areas rented, leased, or under an exclusive agreement for the full-time occupancy and use of a private entity ("WVSU Property").<sup>1</sup>
- 1.4. Effective Date:

##### SECTION 2. DEFINITIONS.

- 2.1. "Adequate Security Measures" means the use of electronic equipment and armed personnel at public entrances to detect and restrict the carrying of any pistols or revolvers into the area, including, but not limited to, metal detectors, metal detector wands, or any other equipment used for similar purposes to ensure that pistols or revolvers are not carried in those areas by members of the public.<sup>2</sup>
- 2.2. "Concealed" means hidden from ordinary observation so as to prevent disclosure or recognition. A deadly weapon is concealed when it is carried on or about the person in such a manner that another person in the ordinary course of events would not be placed on notice that the deadly weapon was being carried.<sup>3</sup> For purposes of this Policy, a licensee is considered to be carrying on or about his or her person while in a designated University storage area or the weapon is in a motor vehicle if located in a storage area in or on the motor

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<sup>1</sup> W. Va. Code § 18B-4-5b(a)(noting that the W. Va. Self-defense Act "only applies to areas of the campus and buildings of a state institution of higher education under the custodial possession of the state institution of higher education and does not include areas rented, leased, or under an exclusive agreement for the full-time occupancy and use of a private entity").

<sup>2</sup> W. Va. Code § 18B-4-5b(b)(4).

<sup>3</sup> See W. Va. Code § 61-7-2(3)(defining the term).

vehicle.

- 2.3. “Dangerous Object” means any object or device which can be used to cause harm or unnecessarily risks the safety of another person and includes any item with a lawful purpose (such as, scissors, baseball bat, paintball gun) used in a manner which could or does result in an act of violence or a threat of violence against another person, except when used for self-defense.
  - 2.3.a. This includes fireworks or other explosives, tasers, air-powered rifles, imitation weapons without appropriate safety markings.
- 2.4. “Deadly Weapon” means an instrument which is designed to be used to produce serious bodily injury or death or is readily adaptable to such use.<sup>4</sup>
  - 2.4.a. The term “Deadly Weapon” includes, but is not limited to, firearms, blackjacks, gravity/switchblade or other knives, metallic or false knuckles, nunchaku, pistols, revolvers, as defined in the W. Va. Code, or other deadly weapons of like kind or character which may be easily concealed on or about the person.<sup>5</sup>
  - 2.4.b. The term “Deadly Weapon” does not include a pocketknife with a blade three and one-half inches or less in length, a hunting or fishing knife carried for hunting, fishing, sports, or other recreational uses, or a knife designed for use as a tool or household implement, unless the item is knowingly used or intended to be used to produce serious bodily injury or death.
  - 2.4.c. The term “Deadly Weapon” includes explosive, chemical, biological, and radiological materials.
  - 2.4.d. The term “Deadly Weapon” does not include any item or material owned or used by the University, intended for educational use, including academic, athletic, or research, and used solely for that purpose.
  - 2.4.e. The term “Deadly Weapon” does not include pepper spray when used by any person solely for self-defense purposes.<sup>6</sup>
- 2.5. “High Hazardous and Animal Laboratories” means laboratories with:
  - 2.5.a. Greater than 55 gallons of Class I flammable liquids and/or significant quantities of acids, bases, organics, pyrophorics, peroxides, bio-hazardous materials, extremely toxic materials, or pyrophoric or toxic gases classified NFPA 704 Category 3 or higher;
  - 2.5.b. Hazardous gases with K-size or larger cylinders containing corrosive, reactive,

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<sup>4</sup> See W. Va. Code § 61-7-2(5) (defining the term).

<sup>5</sup> See generally W. Va. Code § 61-7-2 (5).

<sup>6</sup> See W. Va. Code § 61-7-2(5).

flammable, toxic, and/or oxidizer gases classified NFPA 704 Category 2 or higher;

- 2.5.c. MRI and/or NMR equipment capable of generating significant magnetic fields with field strength of at least 5 gauss is measured outside the equipment or 5 gauss line typically at least 3 feet and as much as 20 feet from equipment;
- 2.5.d. Large cylinders of acetylene; or
- 2.5.e. Animal research laboratory spaces in locations not accessible to the public or generally accessible to students and employees.<sup>7</sup>
- 2.6. “License” means a current and valid license, lawfully issued by the State of West Virginia pursuant to W. Va. Code § 61-7-4, License to carry deadly weapons; how obtained; W. Va. Code § 61-7-4a, Provisional license to carry deadly weapons; how obtained; or a current and valid license or permit recognized under W. Va. Code § 61-7-6a, Reciprocity and recognition; out-of-state concealed handgun permits.<sup>8</sup>
- 2.7. “Pistol” means a short firearm having a chamber which is integral with the barrel, designed to be aimed and fired by the use of a single hand.<sup>9</sup>
- 2.8. “President” means the President or their designee.
- 2.9. “Revolver” means a short firearm having a cylinder of several chambers that are brought successively into line with the barrel to be discharged, designed to be aimed and fired by the use of a single hand.<sup>10</sup>
- 2.10. “Sole Occupancy Office” means a room with at least one door and walls that extend to the ceiling that is assigned to a single person as his or her workspace.<sup>11</sup>
- 2.11. “WVSU Property” means all areas on-campus and in the buildings under custodial possession of the WVSU Board of Governors, and does not include areas rented, leased, or under an exclusive agreement for the full-time occupancy and use of a private entity.<sup>12</sup>

### **SECTION 3. POLICY.**

- 3.1. Except as specifically provided for by this Policy or by law, Deadly Weapons and Dangerous Objects are prohibited on WVSU Property.

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<sup>7</sup> W. Va. Code § 18B-4-5b(b)(11).

<sup>8</sup> W. Va. Code § 18B-4-5b(i).

<sup>9</sup> W. Va. Code § 61-7-2 (13).

<sup>10</sup> W. Va. Code § 61-7-2(14).

<sup>11</sup> W. Va. Code § 18B-4-5b(b)(6).

<sup>12</sup> See W. Va. Code § 18B-4-5b(a)(stating the language of the W Va. Self-defense Act “only applies to areas of the campus and buildings of a state institution of higher education under the custodial possession of the state institution of higher education and does not include areas rented, leased, or under an exclusive agreement for the full-time occupancy and use of a private entity”).

- 3.2. Section 3.1 does not apply to a person holding a License to carry a Concealed Deadly Weapon and who is carrying a Concealed Pistol or Revolver on WVSU Property,<sup>13</sup> except as set forth in section 3.3.
- 3.3. Consistent with both the Campus Self-defense Act and the W. Va. Business Liability Protection Act,<sup>14</sup> all Deadly Weapons, including Concealed Pistols and Revolvers, are prohibited in the following locations:
  - 3.3.a. At an organized event taking place at a stadium or arena with a capacity of more than 1,000 spectators.<sup>15</sup>
  - 3.3.b. At a daycare facility located on WVSU Property.<sup>16</sup>
  - 3.3.c. In the secure area of any building used by University Police or other law-enforcement agency on WVSU Property.<sup>17</sup>
  - 3.3.d. In an area that has Adequate Security Measures to ensure that Pistols or Revolvers are not to be carried by the public into the area.<sup>18</sup>
    - 3.3.d.1. Any such area designated by the University under this exception will provide reasonable notice to the public and campus community.
  - 3.3.e. In an on-campus room or rooms in which a student or employee disciplinary proceeding is being held.<sup>19</sup>
  - 3.3.f. In Sole Occupancy Offices,<sup>20</sup> but only in those offices where the sole occupant notifies those who may be entering that Concealed Pistols and Revolvers are prohibited.
  - 3.3.g. At a primary or secondary education school-sponsored function being held in a specific location on WVSU Property that is rented, leased, or under the exclusive use of the W. Va. Department of Education, the W. Va. Secondary Schools Activities

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<sup>13</sup> W. Va. Code § 18B-4-5b(a)(providing that “a person holding a current and valid license to carry a concealed deadly weapon may carry a concealed pistol or revolver on the campus and in the buildings of a state institution of higher education”).

<sup>14</sup> W. Va. Code § 61-7-14.

<sup>15</sup> W. Va. Code § 18B-4-5b(b)(1).

<sup>16</sup> W. Va. Code § 18B-4-5b(b)(2).

<sup>17</sup> W. Va. Code § 18B-4-5b(b)(3).

<sup>18</sup> W. Va. Code § 18B-4-5b(b)(4)(defining “adequate security measures” as “the use of electronic equipment and armed personnel at public entrances to detect and restrict the carrying of any pistols or revolvers into the area, including, but not limited to, metal detectors, metal detector wands, or any other equipment used for similar purposes to ensure that pistols or revolvers are not carried in those areas by members of the public”); *see also infra* section 5.1.

<sup>19</sup> W. Va. Code § 18B-4-5b(b)(5).

<sup>20</sup> W. Va. Code § 18B-4-5b(b)(6)(defining a “sole occupancy office” as “a room with at least one door and walls that extend to the ceiling that is assigned to a single person as his or her workspace” but not authorizing WVSU “to prohibit, regulate, or restrict faculty or staff members who hold a current and valid license to carry a concealed deadly weapon from carrying a concealed pistol or revolver in his or her assigned office”); *see also infra* section 5.10.

Commission, a county school board, or local public school for the actual period of time the function is occurring.<sup>21</sup>

3.3.h. At a private function that is being held in a specific location on WVSU Property that is rented, leased, or under exclusive use of an entity for the actual period of time the function is occurring.<sup>22</sup>

3.3.h.1. Any such function designated by an entity under this exception will provide reasonable notice to the attendees.

3.3.i. In any WVSU Property where possession of a firearm is prohibited by state or federal law.<sup>23</sup>

3.3.j. In specifically designated areas in which patient-care or mental health counseling is being provided.<sup>24</sup>

3.3.j.1. The University shall provide reasonable notice to the public and campus community about what areas are designated under this exception.

3.3.k. In High Hazardous and Animal Laboratories.<sup>25</sup>

3.3.k.1. The University shall provide reasonable notice to the public and campus community about what areas are designated under this exception.

3.3.l. In on-campus residence halls, except common areas such as lounges, dining areas, and study areas.<sup>26</sup>

3.3.l.1. This exception does not apply to employees whose responsibilities require him or her to be in an on-campus residence hall and that person would otherwise be able to carry a Concealed Revolver or Pistol on-campus as long as that person is present in the residence hall for purposes of his or her employment.<sup>27</sup>

3.3.l.2. The Board of Governors delegates to the President the responsibility to (1) provide either (a) a secure location for the storage of a pistol or revolver in at least one on-campus

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<sup>21</sup> W. Va. Code § 18B-4-5b(b)(7).

<sup>22</sup> W. Va. Code § 18B-4-5b(b)(8).

<sup>23</sup> W. Va. Code § 18B-4-5b(b)(9).

<sup>24</sup> W. Va. Code § 18B-4-5b(b)(10).

<sup>25</sup> W. Va. Code § 18B-4-5b(b)(11).

<sup>26</sup> W. Va. Code § 18B-4-5b(b)(12).

<sup>27</sup> W. Va. Code § 18B-4-5b(c).

residence halls; or (b) make available an appropriate safe that may be installed in a resident's room; (2) develop a policy that reserves an appropriate amount of rooms in the on-campus residence halls where the storage rooms are located for on-campus residents with a License;<sup>28</sup> and (3) charge a reasonable fee for the use of the secure storage location or a safe.<sup>29</sup>

- 3.4. The exceptions set forth in Section 3.3 and the general prohibition on Deadly Weapons or Dangerous Objects do not apply to the following persons, while acting in their official capacity: law enforcement officers or law enforcement officials; W. Va. Department of Corrections employees; members of the armed forces of the United States or the W. Va. National Guard; any circuit judge, prosecuting attorney, assistant prosecuting attorney, or investigator duly appointed by a prosecuting attorney; and individuals required to possess the items prohibited by this Policy in order to participate in undertakings sanctioned by West Virginia State University which include academic/research programs, historical items, and the farm management programs which are approved by the Department of Natural Resources. Additionally, West Virginia State University's Chief of Police may grant additional exceptions in writing for the convenience of the University in achieving its mission. Finally, consistent with the W. Va. Business Liability Protection Act, the prohibitions of this Policy do not apply to legally owned firearms lawfully possessed, out of view, locked inside or locked to a motor vehicle in a parking lot when an individual is lawfully allowed to be present in an area.<sup>30</sup>
- 3.5. To the extent anything in this Policy conflicts with the Campus Self-defense Act or the W. Va. Business Liability Protection Act, the applicable act takes precedent.

#### **SECTION 4. CAMPUS SELF-DEFENSE ACT RESOURCES.**

- 4.1. Website.
- 4.1.a. The Board of Governors designates and directs the President to maintain a public website with resources relating to this Policy and the University's compliance with the Campus Self-defense Act.
- 4.1.b. The issues to be addressed on this website include, but are not limited to, resources discussing the list or map of locations identified as exempt under Section 3.3 where the carrying of a concealed pistol or revolver is prohibited; gun safety and training opportunities for those interested; and information about how to obtain a concealed weapons permit.
- 4.2. Frequently Asked Questions.

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<sup>28</sup> W. Va. Code § 18B-4-5b(d).

<sup>29</sup> *See generally* W. Va. Code § 18B-4-5b(e).

<sup>30</sup> W. Va. Code § 61-7-14(d)(1)(A)-(D).

- 4.2.a. The Board of Governors designates and directs the President to maintain a list of frequently asked questions and posted responses to those questions on the public website mentioned in Section 4.1.a. The responses to such questions shall be done in a matter that provides useful and practical advice to the campus community.

## **SECTION 5. VIOLATIONS.**

- 5.1. Any University Employee or Student who fails to abide by the requirements within this Policy shall be subject to appropriate disciplinary action, including warning, suspension, termination, or other disciplinary action as may be appropriate.
- 5.2. Any other person who fails to abide by the requirements of this Policy shall be subject to appropriate action, including a request to leave campus or temporarily relinquish the prohibited item and, if they fail to do so, referral for any appropriate criminal action and/or issuance of a trespass notice.
- 5.3. Importantly, a holder of a License or any other person not expressly authorized to do so by this Policy, shall not carry a Pistol or Revolver (or any other firearm or Deadly Weapon), which is partially or wholly visible, or intentionally or knowingly display in plain view of another person in a way or manner to cause, or threaten, a breach of the peace, regardless of whether the firearm is holstered. Anyone who violates this may, in addition to any applicable criminal charges, be subject to discipline.<sup>31</sup>
- 5.4. Although conduct may not violate this Policy, it may still be prohibited by the University under a different Policy, policy, or standard of behavior. Accordingly, in such cases, the University reserves the ability to take any necessary action.

## **SECTION 6. DELEGATION.<sup>32</sup>**

- 6.1. The Board of Governors delegates to the President the authority to adopt internal policies and procedures to effectuate the implementation of this Board of Governors Policy. Any actions taken pursuant to this delegation must be consistent with the guidelines provided by this Policy.

## **SECTION 7. SUPERSEDING PROVISIONS.**

- 7.1. This Policy supersedes and replaces WVSU BOG Policy 57 Deadly Weapons and Destructive Devices This Policy also repeals, supersedes, and replaces any other internal University policy or procedure which relates to the subject matter contained within this Policy.

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<sup>31</sup> W. Va. Code § 18B-4-5b(g).

<sup>32</sup> The Board of Governors specifically delegates the authority to the President to update any website links contained within this Policy, W. Va. Code citations, or other minor technical edits without going through the Board's formal Policymaking procedures.