



Firearms on Community College Campuses

Texas law regulates firearms primarily through criminal offenses described in Texas Penal Code chapter 30 and chapter 46 and handgun licensing restrictions found in Texas Government Code chapter 411, subchapter H.

Firearms Generally

What is a *firearm*?

A *firearm* is a device made, designed, or adapted to expel, using energy from a burning substance or explosion, an object through a barrel or a device easily convertible to that use. The term does not include devices considered to be antique or curio firearms made before 1899 and some replicas of those firearms. Tex. Penal Code § 46.01(3). Possession of specified firearms, machine guns and short-barrel firearms are prohibited outright by state law. Armor-piercing ammunition and, unless permitted by federal law, firearm silencers, are prohibited as well. Tex. Penal Code § 46.05(a).

Who may carry a firearm?

Possession of other types of firearms is limited to certain categories of individuals. For example, only those licensed under Texas Government Code chapter 411, subchapter H, or otherwise authorized, may carry a handgun outside of their homes, vehicles, and watercraft. Tex. Penal Code § 46.02. To be licensed, a person must meet the statutory eligibility requirements, including being at least 21 or, if the person served in the military, at least 18; satisfy the criminal background check requirements; attend an approved handgun proficiency course for four to six hours; and demonstrate a minimum level of handgun proficiency. Tex. Gov't Code §§ 411.172, .176, .188-.1882. For more information regarding handgun licenses, see the Texas Department of Public Safety Handgun Licensing Website, available at dps.texas.gov/rsd/ltc/index.htm.

Additionally, Texas law authorizes the following officials to bring firearms onto the premises of a community college:

- on or off duty peace officers or special criminal investigators;
- authorized and on-duty parole officers;
- authorized and on-duty community supervision and corrections department officers;
- active judicial officers licensed to carry handguns;

- honorably retired peace officers, qualified retired law enforcement officers, federal criminal investigators, or former reserve law enforcement officers, with proper identification;
- U.S. attorneys and assistant U.S. attorneys, the attorney general and assistant attorneys general, district attorneys and assistant district attorneys, criminal district attorneys, county attorneys, or municipal attorneys licensed to carry handguns;
- bailiffs designated to escort active judicial officers and licensed to carry handguns;
- juvenile probation officers authorized to carry firearms; and
- while providing emergency services, volunteer emergency services personnel who are licensed to carry.

Tex. Penal Code § 46.15(a).

Possession is also restricted by the location on which the firearm is carried. With the exception of members of the military and court officers executing their duties, individuals, even handgun license holders, are prohibited by Texas Penal Code section 46.03 from intentionally, knowingly, or recklessly possessing or going with a firearm:

- On the premises of a school or an educational institution unless granted permission by the school or institution or the person is a license holder carrying a concealed handgun on an institution of higher education's premises;
- On the grounds or in a building where an activity sponsored by a school or an educational institution is being held, unless granted permission by the school or institution or the person is a license holder carrying a concealed handgun to an activity sponsored by an institution of higher education;
- In the school or educational institution's passenger transportation, unless granted permission by the school or institution or the person is a license holder carrying a concealed handgun in an institution of higher education's vehicle;
- At the premises of a polling place during early voting or on election day; and
- On the premises of or offices used by a court without the court's written authorization.

Tex. Penal Code § 46.03(a), (d). See Op. Tex. Att'y Gen. No. KP-50 (2015) (concluding that Section 46.03 prohibits firearms anywhere that a school activity occurs, even if that location does not meet the statutory definition of *premises*). See also TASB Policy CHF(LEGAL).

Premises is defined as a building or portion of a building. Tex. Penal Code §§ 46.03(c)(2), .035(f)(3).

In the case of the first three locations listed above, an educational institution may permit carry of firearms through a written regulation or through written authorization. Tex. Penal Code § 46.03(a)(1).

Violations of Section 46.03 are punishable as a third degree felony. Tex. Penal Code § 46.03(g).

Section 46.03 has traditionally been applied generally to community colleges as educational institutions. See *Dupree v. State*, 433 S.W.3d 788 (Tex. App.—Texarkana 2014) (reversing the conviction under Section 46.03 of an individual who carried a handgun on a college campus because he did not carry the handgun within a college building). However, the Texas attorney general stated in a recent opinion that the reference to “school or educational institution” does not include community colleges. Op. Tex. Att’y Gen. No. KP-120 (2016). The college should therefore consult with the college’s attorney regarding the application of the criminal sanctions under Section 46.03 to those who carry weapons on campus.

Firearms are also prohibited in licensed day care centers unless carried by a qualified law enforcement officer. 40 Tex. Admin. Code § 746.3707.

Open Carry of Handguns by License Holders

May a handgun license holder openly carry a handgun?

A handgun license holder may carry partially or wholly visible handguns stored in a shoulder or belt holster with certain exceptions in addition to those described above at Firearms Generally. Tex. Penal Code § 46.035(a). See also TASB Policy CHF(LEGAL).

Texas Penal Code section 46.035: A handgun license holder is prohibited by Texas Government Code section 46.035 from intentionally or knowingly displaying a handgun in the plain view of a person:

- on the *premises*, defined as a building or portion of a building, of a higher education institution, such as a college;
- on the institution’s public or private driveway, street, sidewalk, or walkway; and
- in the institution’s public or private parking lot, parking garage, or other parking area.

Tex. Penal Code § 46.035(a)-(a-1), (f)(3).

A handgun license holder, with the exception of certain judicial and court officers, is also prohibited from intentionally, knowingly, or recklessly carrying a handgun:

- on the *premises*, defined as a building or portion of a building, where a collegiate sporting event or interscholastic event is taking place, unless the person is a participant in an event where the handgun is used;
- in the room or rooms where a properly posted open meeting, subject to the Texas Open Meetings Act (OMA), of a governing body, including a college board of trustees, is taking place as long as the entity provides the notice specified by Texas Penal Code section 30.07;
- on the premises of a place of religious worship; and
- on the premises of a business with a permit or license to sell alcohol if the majority of the business is the sale or service of alcohol for on-site consumption.

Tex. Penal Code § 46.035(b)-(c), (f)(3), (i).

A license holder is always prohibited from carrying when intoxicated. Tex. Penal Code § 46.035(d).

Violations of Section 46.035 are punishable as a Class A misdemeanor, with the exception of possession at a place selling or serving alcohol as described above, which is a third degree felony. Tex. Penal Code § 46.035(g).

Must a college post notice of the prohibition on open carry?

A college need not post notice of the prohibition on open carry for Texas Penal Code section 46.03 or section 46.035 to apply. However, Texas Penal Code section 30.07 provides an additional offense that will apply upon proper notice. Section 30.07 provides that a handgun license holder commits a trespass offense if the person openly carries a handgun in violation of Section 46.03 or Section 46.035 despite notice open carry is prohibited by the college.

To be effective, the notice must be communicated orally or in writing by the college or a person acting under the apparent authority of the college. If in writing, the communication must either be in the form of:

- a document, like a card, with the exact wording specified by Section 30.07; or
- a sign, posted conspicuously and clearly visible to the public at each entrance to the property, displaying the specified wording printed in both English and Spanish in contrasting colors and block letters at least one inch high.

Tex. Penal Code § 30.07(b)-(c).

Entry is defined as intrusion of the entire body. Tex. Penal Code §§ 30.05(b), .07(c)(1).

The license holder commits a Class A misdemeanor if the person openly carries a handgun onto college property where open carry is prohibited and fails to depart upon being given personal, oral notice that open carry is forbidden. All other violations of Section 30.07 are classified as a Class C misdemeanor punishable by a fine of up to \$200. Tex. Penal Code § 30.07(d).

Additionally, a community college may not post signs stating that a handgun license holder is prohibited from entering or remaining on property owned or leased by the college unless the prohibition is valid under state law. Tex. Gov't Code § 411.209. The penalties for doing so are described in more detail in the next section.

Concealed Carry by License Holders

May a handgun license holder carry a concealed handgun on campus?

Effective August 1, 2017, the legal restrictions on campus carry were significantly lessened. A handgun license holder may now carry a concealed handgun on community college property subject to limited exceptions addressed by law or the college's rules and regulations. See TASB Policy CHF(LEGAL).

Texas Government Code section 411.2031: Texas Government Code section 411.2031 permits handgun license holders to carry a concealed handgun on a community college campus, a concept frequently referred to as campus carry, subject to the rules and regulations of the community college. *Campus* is defined to include all land and buildings owned or leased by the college. Tex. Gov't Code 411.2031.

Texas Penal Code section 46.035: In addition to the restrictions described above at Firearms Generally, a handgun license holder, with the exception of certain judicial and court officers, is prohibited from intentionally, knowingly, or recklessly carrying a handgun:

- on the *premises*, defined as a building or portion of a building, where a collegiate sporting event or interscholastic event is taking place if the entity provides the notice specified by Texas Penal Code section 30.06, unless the person is a participant in an event where the handgun is used;
- in the room or rooms where a properly posted open meeting, subject to the OMA, of a governing body, including a college board of trustees, is taking place as long as the entity provides the notice specified by Section 30.06;
- on the premises of a place of religious worship; and

- on the premises of a business with a permit or license to sell alcohol if the majority of the business is the sale or service of alcohol for on-site consumption.

Tex. Penal Code § 46.035(b)-(c), (i).

A handgun license holder commits an offense under Section 46.035 if that person intentionally carries a concealed handgun in a building or portion of a building on the college campus in violation of the rules and regulations adopted by the college as described below provided that the college provides the notice described by Section 30.06 to the handgun license holder. Tex. Penal Code § 46.035(a-3).

A license holder is always prohibited from carrying when intoxicated. Tex. Penal Code § 46.035(d).

Violations of Section 46.035 are punishable as a Class A misdemeanor, with the exception of possession at a place selling or serving alcohol as described above, which is a third degree felony. Tex. Penal Code § 46.035(g).

Note, the Texas attorney general has concluded that employees and board members who lawfully possess a handgun license will not violate Section 46.035 if they carry at sporting and interscholastic events and at board meetings pursuant to written authorization granted by an educational institution under Texas Government Code section 46.03(a)(1) to carry at those events. Tex. Att’y Gen No. GA-1051 (2014).

Other laws: To the extent the Section 46.035 restrictions do not extend to concealed carry in parking areas, a college may be tempted to invoke its authority as an employer to prohibit its employees from carrying concealed weapons in their personal cars parked on college property. However, the college may not prohibit an employee who is a handgun license holder from storing lawfully possessed firearms or ammunition in the employee’s locked vehicle in a parking area provided for employees. Tex. Lab. Code § 52.061.

Similarly, the college may not prohibit or restrict any handgun license holder from storing or transporting lawfully-possessed firearms or ammunition in the person’s locked car in a street, driveway, or parking area located on a college campus. *Campus* is defined as all land and buildings owned or leased by the college. Tex. Gov’t Code § 411.2032.

What parameters apply to a community college’s campus carry regulations?

Community colleges were required to take certain steps by August 1, 2017 to address campus carry. The college CEO, the college president or chancellor, as applicable, was required to establish reasonable rules or regulations addressing handgun license

holders' carrying of concealed handguns on campus or in a building or portion of a building on campus. The restrictions were to be established only after first consulting with students, faculty, and staff regarding specific safety considerations, the nature of the student body, and the uniqueness of the campus environment. The college was permitted to also address the storage of handguns in on-campus residential facilities owned or leased and operated by the college in the regulations. The established rules and regulations may not generally prohibit or have the effect of generally prohibiting handgun license holders from carrying concealed handguns on campus. Once adopted, the college CEO may amend the rules when necessary to address campus safety. Tex. Gov't Code 441.2031(d)-(d-1).

Within 90 days after the rules and regulations were established, the college board of trustees was required to review the provisions and, if approved by at least two-thirds of the board, amend the provisions in whole or in part. Outside of the rules and regulations, the college is not permitted to prohibit handgun license holders from carrying handguns on campus. Tex. Gov't Code 441.2031(d)-(d-2).

As this process involves both the board and the administration, it will affect both policy CHF(LOCAL) and the regulations of those colleges that maintain their local policies through TASB. For recommendations on the placement of the adopted language, contact your college's policy consultant.

What considerations apply to the development and enforcement of the regulations?

Several issues that the college may consider when developing and enforcing the campus carry rules and regulations are discussed below. For examples of rules and regulations adopted by other institutions of higher education, see the FAQ [College & University/State College Campus Carry Websites](#).

General Provisions: In addition to provisions in the rules and regulations listing specific campus carry exclusions, the college CEO may choose to establish general parameters for campus carry and address the application of the rules and regulations. The rules and regulations may:

- Recognize the right of a license holder to carry a concealed handgun on campus unless prohibited by state or federal law or by the exceptions described by the rules and regulations.
- State that the license holder will not be subject to prejudice for lawfully expressing the right to carry.
- State that open carry is prohibited on campus.

- Describe the college's expectations for the license holder, including that the license holder follow state and federal law and college policy and procedures and that the license holder either keep the handgun nearby and properly secured or properly store the handgun in accordance with law and the rules and regulations.
- Acknowledge that the license holder may be asked to show proof of license to a college police officer but that no other employee may ask to see the license.
- Include a disclaimer addressing the activities of employees who carry a concealed handgun outside of their duties as employees.
- Describe how the rules and regulations will be enforced, such as through the involvement of police in criminal infractions and discipline for violation of the rules and regulations.
- Address whether the college will provide general storage, such as storage at the college's police department facilities, or will expect individuals to lawfully store the handgun when going to a place on campus where concealed carry is prohibited.
- Reinforce the legal prohibitions on carry by repeating those prohibitions in the rules and regulations. For example, the regulations may state that a license holder is prohibited from carrying a handgun when intoxicated, while at the meeting of a governmental body, while the college premise is used as a polling place, during religious worship, or while a facility is used by a court.
- Acknowledge that the rules and regulations will be distributed widely to faculty, staff, and students and describe the methods of distribution.
- Address any training regarding the rules and regulations, such as at employee orientations and before students register.
- Reinforce the placement of required signage as described by Texas Government Code section 30.06.
- Address the review of the rules and regulations, a process that may include the use of a special committee to provide recommendations to the college CEO based on requests filed by college units.
- Define terminology used in the rules and regulations.

Classrooms: As instruction is a fundamental function of the college, it is natural that the classroom is one of the first locations a college may consider for a concealed carry ban. The Texas attorney general was asked the extent of the authority of institutions of higher education to place restrictions on campus carry under the provisions of the bill. The attorney general concluded that, because the primary reason most individuals come to campus is to attend or teach classes, a prohibition on bringing handguns into all or a significant number of classrooms would result in the college generally prohibiting handgun license holders from bringing their guns to campus in violation of

Texas Government Code section 411.2031. Similarly, delegating to instructors the power to determine if guns may be brought into their individual classrooms would violate the law's requirement that the college CEO establish the rules and regulations regarding campus carry. Therefore, the college risks a legal challenge if it opts to prohibit concealed handguns in its classrooms, whether through rules and regulations adopted by the college CEO or by delegating the choice to individual instructors. Op. Tex. Att'y Gen. No. KP-51 (2015).

Subsequently, the attorney general was asked if community colleges may restrict the carry of concealed handguns in classrooms as community colleges regularly have a significant number of minors on campus. The attorney general determined that a college may not use the presence of minors as a basis to categorically prohibit concealed handguns from classrooms. However, colleges are permitted to adopt reasonable rules to accommodate the particular nature of the campus and student population if those rules do not have the effect of generally prohibiting concealed carry by license holders on campus. A restriction on carry in a specific classroom during a time when a group of minors will congregate may therefore qualify. Op. Tex. Att'y Gen. No. KP-120 (2016).

Staff Offices: The college may choose to consider whether to prohibit concealed handguns in employee offices, such as through provisions in the rules and regulations themselves or through the delegation of the choice to individual staff members regarding their personal offices. When considering such provisions, the college should keep in mind the attorney general's conclusions in a similar situation described above—that of classrooms. For example, the college should consider whether delegation to individual staff members of the option to exclude handguns in their individual offices would violate the bill's requirement that the college CEO establish the regulations regarding campus carry or if the college is best served by allowing an employee to request that the college CEO grant an exclusion applicable to the employee's office. The college should also consider whether accessibility to instructors would be hindered by such a prohibition, especially if the college does not provide areas outside of individual staff offices for the students to meet with faculty and staff to further their education.

Dorms: As mentioned above, the rules and regulations may address the storage of handguns in on-campus residential facilities owned or leased and operated by the college. If the college has dorms, apartments, or other residential facilities, the college CEO should decide whether students will be required to store their handguns in a gun safe or other secure container. If so, the college CEO should decide whether to offer approved safes for rental or to require the students to provide their own safes. If the latter, the college may choose to approve the safe and the safe's installation or may install the student's safe. The rules and regulations may also address carry by visitors,

and storage of their handguns, in the residence halls as well as carry in common areas of the residence hall. The college CEO may choose to acknowledge that, though the handgun must remain concealed even in the student's residence, the handgun may be visible when transferring the handgun into the safe.

The college CEO may choose to offer roommates of those students who possess a handgun the option of transferring to another room or leaving the college residences. If these options are provided, the rules and regulations should either state a process for requesting and approving the move or state that the process is described in materials provided to residents, such as a residence life handbook. The contract signed by residents should address the option.

Note, the Texas attorney general concluded that to prohibit guns in residence facilities would effectively prevent the residents who are handgun license holders from bringing their guns on campus in violation of the law as the bill addresses handgun storage in dorms assuming that carry in those locations will be allowed. Op. Tex. Att'y Gen. No. KP-51 (2015). However, the college may choose to impose restrictions in special circumstances when safety or other relevant concerns are determined to apply. For example, the college CEO may consider whether to prohibit handguns in dorms during special programs like while the residents are minors attending a summer camp or other special program. Additionally, the college may have leased buildings to a third party so that that party may operate a residential facility. The rules and regulations may choose to acknowledge that the facility is not under the college's possession or control and that the third party will provide annual notice to the college as to whether handguns are prohibited in the facility.

Sporting and Interscholastic Events: Prohibitions on carry in a building or portion of a building where a collegiate sporting event or interscholastic event is taking place is addressed by law. However, as this is an issue of particular interest, the rules and regulations may specifically mention the prohibition in the rules and regulations and list the facilities at which the activities may occur. The college CEO may choose to specifically reference club and intramural sports. The rules and regulations may also address Section 30.06 signage as this is a temporary prohibition. The mention of notice will also serve as reminder that the notice is required for the Section 46.035 prohibition to apply to collegiate sporting events.

Disciplinary Hearings: The college CEO may consider whether concealed carry at employee and student disciplinary and grievance hearings creates a safety risk due to the nature of the subject matter. If the college CEO chooses to prohibit concealed handguns at the hearings, the regulations should address if the prohibition applies permanently to a particular location that regularly houses the hearings or if the prohibition should be implemented temporarily while a hearing is conducted.

Classes and Programs for Minors: Colleges often serve minors, whether through an established day care, an early college high school, summer camps, or other educational programs. The state legislature has historically expressed a desire to prohibit handguns from places where groups of minors are present through the passage of law and in debate regarding campus carry. With this in mind, the college CEO may consider prohibiting concealed weapons at locations where such educational programs are conducted.

The attorney general was asked if community colleges may restrict the carry of concealed handguns in programs where minors will be present and where they are expected to appear; in locations where minors may gather as part of multi-week programs specifically targeting minors; and on campuses that maintain day care programs. After reviewing the relevant statutes, the attorney general could not conclude that the legislature intended a general prohibition on concealed carry, including categorically prohibiting carry in those locations subject to the request, simply because minors are present. However, colleges are permitted to adopt reasonable rules to accommodate the particular nature of the campus and student population as long as the rules do not have the effect of generally prohibiting concealed carry by license holders on campus. The attorney general used as examples places where minors will congregate at the times those minors congregate and the rooms housing a day care center. Op. Tex. Att’y Gen. No. KP-120 (2016).

Laboratories: The college CEO should consider whether the discharge of a handgun in certain locations on campus, such as laboratories, will pose a safety concern due to the presence of hazardous chemicals, biohazards, and equipment that is not compatible with metallic objects. Additionally, research activities in the laboratories, such as animal research, may be conducted under contracts that prohibit the presence of weapons or may otherwise be incompatible with the presence of handguns.

Patient-Care Facilities: The college CEO may choose to consider the exclusion of concealed handguns at locations where health and counseling services are provided due to the nature of the services.

Temporary Prohibition: When applying state law, like the prohibition on concealed carry at school district activities that may occur on a college campus, the college may find a need to apply a temporary prohibition on concealed handguns at those events. The college CEO may also choose to prohibit concealed carry for purposes of safety in limited instances, like at an event where alcohol will be served. The Texas attorney general concluded that occasional, reasonable, temporary restrictions in locations on campus where guns would otherwise be allowed and that are published prominently on the college’s website are permitted under bill provisions allowing for amendments to the rules to be issued for the purpose of campus safety. Op. Tex. Att’y Gen. No. KP-51 (2015).

The rules and regulations should address the temporary prohibitions, including the description of a process for requesting and approving the prohibition, such as review by a special committee that provides recommendations to the college CEO, and the application of temporary signage.

Other Areas: The college CEO may determine after consulting with students, faculty, and staff regarding specific safety considerations, the nature of the student body, and the uniqueness of the campus environment that concealed carry should be prohibited in other areas on campus. For example, facilities may be leased to a third party that prohibits concealed carry on property. The college CEO may choose to require the third party to provide annual notice to the college as to whether handguns are prohibited in the facility. The college may also find a safety concern for handguns to be allowed in nonpublic, secured areas of the college police building.

Harmony with Existing Policy and Procedures: The college should review existing policy, regulations, handbooks, and other materials for any conflicts with the rules and regulations and adjust the text accordingly.

Must a college report regarding its regulations?

The college must report to the legislature and the relevant standing legislative committees by September 1 of each even-numbered year a description of the college's rules and regulations addressing campus carry and explain the reasons for those provisions. Tex. Gov't Code § 441.2031(d-4).

What should a college do to implement the campus carry rules and regulations?

The college's campus carry rules and regulations must be distributed widely to faculty, staff, and students, including by placing them in a prominent location on the college's website. In addition, if the college opts to prohibit concealed weapons in campus buildings, the college must provide the written notice described by Texas Government Code section 30.06, below, a provision specifying the language and format of a card, document, or posted sign that reflects the prohibition. Tex. Gov't Code § 441.2031(d-1), (d-3). For examples of implementation at other institutions of higher education, see the FAQ [College & University/State College Campus Carry Websites](#).

Standing Committee: The college CEO may choose to establish a standing committee to assist in the regular review of the rules and regulations and, if applicable, processing requests for temporary restrictions. The committee may also assist with planning education and awareness and other implementation efforts. The structure of the committee should be based on the needs of the college community. The

committee membership may reflect the population of the college community and may include those responsible for overseeing the implementation of the regulations. The membership may include:

- members of the administration and staff who work in the areas of risk management, legal services, student life, residence life, off-campus life, counseling, facilities, IT, communications, or athletics;
- other staff representatives, such as the staff council president;
- faculty representatives, such as the faculty senate president;
- student representatives, such as the student government president; and
- representatives of the college police department.

Website: A community college is required to post the rules and regulations on the college's website. Tex. Gov't Code 441.2031(d-3). Beyond satisfying the legal requirement, a detailed website can be an important component of the college's education and outreach efforts because people often look first online to find answers to their questions. In addition to the college's rules and regulations and information about the implementation of the rules, the website may include:

- An overview of the legal requirements and relevant links, such as those to the gun laws and legislation described above, the firearms statutes, attorney general opinions addressing the laws, and the Texas Department of Public Safety handgun procedures.
- Answers to frequently asked questions regarding carry on college property.
- An explanation of the development of the rules and regulations.
- Details regarding opportunities for education regarding campus carry and the rules and regulations.
- A video explaining the law and the college's rules and regulations.
- Any relevant forms, such as a request for a temporary prohibition.

Education Efforts: The college should engage in efforts to educate the college community about the rules and regulations in a manner tailored for that particular college. The college may provide forums for the entire community or targeting specific groups. The college should take advantage of gatherings, like regularly scheduled faculty and staff trainings and student orientations. The college should summarize and provide a link to the rules and regulations on the college's website and student and employee handbooks and other relevant documents distributed to the campus community. The college may also develop an informational video.

May a college be held liable for actions taken related to campus carry?

The bill clarifies that the college is immune from damages claims deriving from actions taken as permitted, or duties required but not fulfilled, by Texas Government Code chapter 411, subchapter H, which includes the new provisions addressed in the bill as well as other concealed weapons provisions. The bill grants similar immunity to college officials and employees. However, the immunity does not extend to situations where the action or failure to act is capricious or arbitrary or to a college officer or employee who possesses a handgun on campus and engages in conduct related to the handgun that serves as the basis of a personal injury or property damage claim.

Must a college post notice that concealed carry is prohibited on campus?

A college need not post notice of the prohibition on concealed carry for Texas Penal Code section 46.03 or the majority of Texas Penal Code section 46.035 to apply. However, the Section 46.035 prohibitions on carry at the room where a board meeting is being conducted and on carry at collegiate sporting events requires proper notice to apply. Further, Texas Penal Code section 30.06 provides an additional offense that will apply upon proper notice. Section 30.06 provides that a handgun license holder commits a trespass offense if the person carries a concealed handgun in violation of Texas Penal Code section 46.03 or section 46.035 despite notice concealed carry is prohibited by the college. Tex. Penal Code § 30.06(a).

To be effective, the notice must be communicated orally or in writing by the college or a person acting under the apparent authority of the college. If in writing, the communication must either be in the form of:

- a document, like a card, with the exact wording specified by Section 30.06; or
- a sign, posted conspicuously and clearly visible to the public, displaying the specified wording printed in both English and Spanish in contrasting colors and block letters at least one inch high.

Tex. Penal Code § 30.06(b)-(c).

The license holder commits a Class A misdemeanor if the person carries a concealed handgun onto college property where concealed carry is prohibited and fails to depart upon being given personal, oral notice that concealed carry is forbidden. All other violations of Section 30.06 constitute a Class C misdemeanor punishable by a fine of up to \$200. Tex. Penal Code § 30.06(d).

In addition, a community college may not post signs referring to Section 30.06 or stating that a handgun license holder is prohibited from entering or remaining on property owned or leased by the college unless the prohibition is valid under state law. Upon the receipt of a complaint from a Texas citizen or a handgun license holder, the Texas attorney general will investigate and provide the college an opportunity to cure any violations before filing suit against the college. A college that displays a sign in violation of this restriction is liable for a penalty of \$1,000 to \$1,500 for the first violation and \$10,000 to \$10,500 for every subsequent violation. Each day the sign is displayed is considered a separate violation. Tex. Gov't Code § 411.209.

For more information on this and other community college law topics,
visit TASB Community College Services online at colleges.tasb.org.

This document is provided for educational purposes only and contains information to facilitate a general understanding of the law. It is neither an exhaustive treatment of the law on this subject nor is it intended to substitute for the advice of an attorney. It is important for the recipient to consult with the college's own attorney in order to apply these legal principles to specific fact situations.

© 2017. Texas Association of School Boards, Inc. All rights reserved.

This document is copyrighted by TASB but may be reproduced in order to share the information within your own college. Further use or copying is prohibited without the consent of TASB Legal Services. Requests to duplicate or distribute this document should be made in writing to Director, Legal Services, Texas Association of School Boards, P.O. Box 400, Austin, Texas 78767-0400 or by e-mailing legal@tasb.org.

Published September 2017

© 2017. Texas Association of School Boards, Inc. All rights reserved.
TASB Community College Services