

AGENDA**UAF STAFF COUNCIL #270****Monday, April 4, 2016****8:45 - 11:15 AM****Wood Center - Ballroom****Google Hangout**

- I. 8:45 -8:50 CALL TO ORDER & ROLL CALL**
 - A. Call to Order
 - B. Roll Call
 - C. Approval of Staff Council Meeting #270 Agenda
 - D. Green Dot Minute
- II. 8:50 - 9:00 STATUS OF PENDING ACTIONS**
 - A. Staff Council Resolution 2016-269-Proposed Changes to UA Reg.
'R.04.07.110.I. Review of Layoff or Recall Decision'
 - B. Staff Council Resolution 2016-E-1: Opposing SB 174 - Guns on Campus
 - i. Attachment 270-3: Resolution 2016-E-1 - APPROVED (Vote: Yes-18, No-5)
 - ii. Attachment 270-7: Staff Alliance Resolution Opposing SB174
 - iii. Attachment 270-10: Staff Council - SB174 Staff Survey Results
 - iv. Attachment 270-11: UA Board of Regents Resolution Regarding Senate Bill 174
 - v. Attachment 270-12: UA Weapons Q & A (rev. 3-22-16)
- III. 9:00 - 9:05 PUBLIC COMMENT**
- IV. 9:05 - 9:10 STAFF ACHIEVEMENTS AND HIGHLIGHTS**
- V. 9:10 - 9:25 GUEST SPEAKER**
 - A. Jyotsna Heckman, Chair, UA Board of Regents
- VI. 9:25 - 9:40 CHANCELLOR'S REMARKS**
- VII. 9:40 - 9:50 GOVERNANCE REPORTS**
 - A. Leslie Drumhiller - ASUAF
 - B. Orion Lawlor, President Elect - Faculty Senate
- VIII. 9:50 - 9:55 BREAK**

IX. 9:55 - 10:05 OFFICERS REPORTS

- A. Faye Gallant, President
- B. Nate Bauer, Vice President

X. 10:05 - 10:25 UNFINISHED BUSINESS

- A. University Advocacy Committee - 'Staff Mentoring Interest Survey'
- B. Chancellor Search Update
 - i. Chancellor visit recap & feedback opportunities: www.uaf.edu/chancellor/search
- C. Outstanding Staff Council Achievement Award
- D. Proposed New Regulation on Telecommuting
- E. UA Strategic Pathways
- F. Draft Performance Evaluation Feedback
- G. 2016-2017 Officer Election - Nominations Open
- H. Committee Representatives (none)

XI. 10:25 - 10:45 NEW BUSINESS

- A. Statewide Transformation Team update
- B. Strategic Pathways Forum for UAF Governance Groups hosted by President Johnsen
 - Thurs. Apr. 21, 8:30 - 10:00 a.m., Wood Center Ballroom
- C. Motion to Amend Bylaws Section 8
 - i. Attachment 270-1: Motion 2016-270-1 - Draft
- D. Motion to Amend UAF Staff Council Bylaws Sections 10 and 11
 - i. Attachment 270-2: Motion 2016-270-2 - Draft

XII. 10:45 - 11:00 INTERNAL COMMITTEE REPORTS

- A. Elections - Brandi Marrero, Chair - Did not meet
- B. Membership and Rules - Trish Winners, Chair
 - i. Attachment 270-4: Apr. Committee Report
- C. Rural Affairs - Chris Brooks, Chair
- D. Staff Affairs - Jane Groseclose, Co-Chair & Samara Taber, Co-Chair
- E. University Advocacy - Jami Warrick
 - i. Attachment 270-8: Apr. Committee Report
 - ii. Attachment 270-5: Healthy Nanook Survey Results

XIII. INTERNAL AD HOC COMMITTEE REPORTS

- A. Staff Make Students Count Ad Hoc Committee

XIV. EXTERNAL STATEWIDE COMMITTEE REPORTS (written only)

- A. Staff Alliance- Staff Health Care Committee - Lesli Walls, Rep; Stacey Howdeshell, Rep; David Bantz, Alt; Sue Mitchell, Alt
 - i. Attachment 270-13: SHCC Meeting Notes - March 4, 2016
- B. Staff Alliance Compensation Working Group - Brad Krick, Chair; Faye Gallant; Janine Smith; Mike Cox
 - i. Meeting rescheduled to early April
- C. Staff Alliance Morale Committee - Lesli Walls, Rep; Jami Warrick, Rep

XV. EXTERNAL UAF COMMITTEE REPORTS (written only)

- A. Accreditation Steering Committee - On Hiatus
- B. Chancellor's Advisory Committee for the Naming of Campus Facilities - Jesse Atencio, Rep
- C. Chancellor's Diversity Action Committee (CDAC) - On Hiatus
- D. Chancellor's Planning and Budget Committee - Nate Bauer, Rep; Trish Winners, Alt
- E. Chancellor Search Committee - Faye Gallant, Rep
- F. Fresh Air Campus Challenge Committee - Brad Krick, Rep; Sue Miller, Alt - On Hiatus
- G. Master Planning Committee (MPC) - Brad Krick, Rep
 - i. Attachment 270-6: Apr. Committee Report
- H. Meritorious Service Award Committee - Connie Huizenga, Rep
- I. Parking Appeals Committee (PAC) - Brad Krick, Rep - Did not meet
- J. People's Endowment Committee - Jessica MacCallum, Rep
- K. RISE Board - Ian Olson, Rep
- L. Sustainability in Dining Committee - Mathew Mund, Rep
 - i. Attachment 670-9: Apr. Committee Report

XVI. UAF AD HOC COMMITTEE REPORTS (written only)

- A. Training & Employee Development Working Group Update - Jessica MacCallum

XVII. 11:00 - 11:15 ROUND TABLE DISCUSSION**XVIII. 11:15 ADJOURN**

DRAFT

**University of Alaska Fairbanks
Staff Council
Motion 2016-270-1
*DRAFT***

Motion 2016-270-1

Motion to Amend UAF Staff Council Bylaws to Clarify ‘Veto Powers’

MOTION:

UAF Staff Council moves to amend the organization’s Bylaws to clarify ‘veto powers,’ as listed below.

EFFECTIVE: Immediately

REASONING: This motion amends, adds, and strikes language in Section 8. to clarify the veto powers of the chancellor and give Staff Council guidance if a veto occurs. Grammatical changes are made to Sections 8.C.. Section 8.D. was added to give Staff Council guidance on actions that can be taken if a veto occurs, specifically to request justification from the chancellor.

Motion 2016-270-1 (cont):

CAPS = Addition

~~strike through~~ = Deletion

Section 8. Veto Powers

- A. Actions taken by the UAF Staff Council pertaining to University policy, procedures and regulations will be forwarded to the Chancellor for approval.
- B. An action of the UAF Staff Council will be considered approved if the Chancellor fails to respond to that action within 45 days of receipt of the action by the Chancellor.
- C. The Chancellor may veto ~~an~~ **OR CHANGE THE** entirety **OR SPECIFIC LINE ITEMS OF THE** UAF Staff Council action, ~~or veto or change only a portion thereof,~~ provided that the change does not effectively contravene or nullify the purpose or principle involved in the main action.
- D. IF AN ACTION IS VETOED OR CHANGED ENTIRELY OR PARTIALLY BY THE CHANCELLOR, THE UAF STAFF COUNCIL MAY REQUEST REASONING FOR THE VETO OR CHANGE IF NOT PROVIDED.**

University of Alaska Fairbanks
Staff Council
Motion 2016-270-2
DRAFT

UAF Staff Council Motion 2016-270-2

Motion to Amend UAF Staff Council Bylaws ‘Section 10. Recall and Referendum’ and to Create Bylaws ‘Section 11. Parliamentary Authority’

MOTION:

UAF Staff Council moves to amend the organization’s Bylaws ‘Section 10. Recall and Referendum’ and to Create Bylaws ‘Section 11. Parliamentary Authority,’ as follows.

EFFECTIVE: Immediately

REASONING: This motion amends language in Section 10 to provide consistency and adds Section 11 to improve organization of the bylaws by making wording consistent in Sections 10.A. and 10.B. Also, Section 11 is added; previously the ‘parliamentary authority’ statement was not in a recognized section.

CAPS = Addition

~~strike through~~ = Deletion

Section 10. Recall and Referendum

A. Any representative may be recalled by the unit from which the representative was chosen. Such a recall vote shall be held upon petition of one-quarter of the members of that unit. The majority of the votes cast shall rule.

B. Any officer or ~~member~~ **REPRESENTATIVE** of the UAF Staff Council may be petitioned for recall with a one-quarter vote of the UAF Staff Council. The majority vote cast for recall by a quorum of the UAF Staff Council shall cause the recall of that officer or member.

SECTION 11. PARLIAMENTARY AUTHORITY

A. THE PARLIAMENTARY AUTHORITY SHALL BE FROM THE ROBERT'S RULES OF ORDER
NEWLY REVISED.

University of Alaska Fairbanks
Staff Council
Resolution 2016-E-1
Approved
March 11, 2016

The University of Alaska Fairbanks Staff Council approved the following resolution by online vote on March 11, 2016.

Resolution 2016-E-1:

Resolution in Opposition to SB 174 “An Act relating to the regulation of firearms and knives by the University of Alaska”

Whereas, the UAF Staff Council is the elected representative body of the staff of the University of Alaska Fairbanks; and

Whereas, the University of Alaska presented its position on SB 174 via a position paper issued on February 12, 2016 (attached); and

Whereas, the University of Alaska affirmed the Constitutionality of its policies in a 2014 letter from UA General Counsel to the Senate Finance committee (attached); and

Whereas, the University of Alaska outlined its clear concerns with regard to campus safety and concealed carry handguns on campus in the 2014 letter from General Counsel to Senate Finance; and

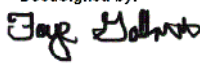
Whereas, the UAF Staff Council agrees that current University of Alaska’s policies regarding weapons on campus are reasonable and prudent; and

Whereas, the Coalition of Student Leaders of the University of Alaska voted to oppose SB 174 and provided testimony in opposition during their legislative advocacy event; and

Whereas, SB 174 would make it more difficult for the University of Alaska to proactively take measures to prevent violence on its campuses; and

Whereas, a March 2016 survey concluded that the majority of UAF staff oppose SB 174; now

Therefore, be it resolved that, the UAF Staff Council opposes SB 174, “An Act relating to the regulation of firearms and knives by the University of Alaska.”

DocuSigned by:

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Faye Gallant, President, UAF Staff Council

March 21, 2016

Date

Michael Hostina
General Counsel

Ardith Lynch
Associate General Counsel

Michael O'Brien
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February 12, 2016

TO: The Honorable Pete Kelly, Co-Chair, Senate Finance

FROM: Michael Hostina, General Counsel, University of Alaska, &
Matt Cooper, Associate General Counsel

RE: University Concerns Regarding SB 174 & Request for Changes

Thank you for the opportunity to comment on SB 174. As drafted, the legislation would preclude the Board of Regents and University administration from effectively managing student and employee conflicts and campus safety issues where concealed weapons are involved. We are writing to express the University's concerns about the proposed legislation and to request changes.

Differences Between the University and State or Municipal Governments. Unlike state or municipal laws, the University's firearms regulations do not extend into the community at large. University policy and regulation only apply to conduct in University buildings and on UA's developed property.¹ These rules do not establish criminal penalties, and primarily affect students and University employees.

In addition, these rules are required to permit the University to manage areas, situations and people *for which the University is responsible*. This distinction is critical because unlike the state or a municipality, the University must proactively manage and is responsible for how thousands of students and employees interact as they live, eat, work and play on its premises.

Critical Changes Requested – UA does not support this bill because it eliminates UA's ability to effectively manage student and employee conflicts and safety issues where concealed weapons are involved. However, amendment to permit regulation in the highly sensitive situations discussed below would address a number of concerns.

¹ The University believes its current policy and regulations are constitutional and allow it to effectively deal with safety issues as they arise. Firearms are permitted: at approved and supervised activities, including rifle ranges, gun shows, etc.; in cars located on streets or in parking lots; by faculty or staff in residences and by dormitory students in approved storage, and while transporting firearms directly to residences or dormitory storage locations; and on undeveloped and uninhabited university land. As detailed in a March 31, 2014 memo to Senate Finance, the constitutional right to bear arms is not implicated when restrictions apply only to sensitive places such as schools and government buildings. That memo is attached as Appendix A.

The University must have rules to effectively manage the following critical situations. In addition, these situations are analogous to situations in which concealed carry is criminalized under current state law. However, because of technical distinctions, they fall short of coverage by criminal law, and could not be regulated by the University under the current bill. UA requests amendment to permit regulation in the following circumstances to address these critical safety issues:

1) When the behavior of students or employees demonstrate they pose a risk of harm to themselves or others - The Report to the NRA by the National School Shield Task Force recommends that schools react promptly to behavior that indicates a risk. However, under the bill as structured, a student or employee who exhibits behavior indicating they pose a risk of harm to themselves or others, or who exhibits warning signs including depression, suicidal gestures, or overt hostility or aggression (everyday occurrences on residential college campuses) could not be deprived of his/her concealed weapons.² The Americans with Disabilities Act and comparable state law prohibits the university from simply removing mentally ill individuals from campus. Allowing regulation that provides a reviewable process to prohibit or restrict troubled individuals from possessing weapons on campus would provide an essential tool to keep campuses safe while complying with state and federal anti-discrimination law. This is particularly true given the high rate of suicide in Alaska, and the increased fatality rates associated with suicide attempts using firearms.

2) In student dormitories or other shared living quarters – Unlike private homes, student housing and dorms provide a high density, communal living environment for the convenience of students. Unlike private landlords, UA has significantly more responsibility for student well-being. UA serves as the “adult,” through residence advisors and other staff, monitoring student well-being, resolving disputes, and requiring compliance with rules. More than half of resident students are under 21 years old, may not legally carry concealed weapons, and do not necessarily get to choose their roommates. The bill would result in concealed weapons being present in dorms where they would be accessible to ineligible roommates and transient guests, and where alcohol is readily available for consumption. Allowing regulation

² This is the case even if the person is involuntarily hospitalized for psychological evaluation, if the evaluation ends without a formal finding of mental illness or formal commitment for treatment. Unless a person is formally adjudicated mentally ill he/she remains eligible to possess weapons under state and federal law. While this may be appropriate in the broader community, it is not required for “sensitive places” like schools, universities and government buildings in which there is no constitutional right to carry weapons.

that would prohibit possession of concealed weapons in shared student residences would be consistent with existing age limits on concealed carry, alcohol restrictions on possession of firearms, as well as with requirements for “adult resident” consent to concealed carry in a residence.

3) In university programs for K-12 students and in facilities where programming for K-12 students is provided – The University runs numerous dedicated programs for K-12 students on university premises.³ These include programs like Mat-Su Middle College and ANSEP at UAA, Upward Bound and RAHI at UAF, and summer college experience programming at UAS. Allowing regulation in this area would avoid a situation where the University cannot manage these programs consistent with existing state law that generally criminalizes adult possession of deadly and defensive weapons on K-12 grounds, in buildings, and at K-12 events.

4) In university facilities housing health and counseling services or other services related to sexual harassment or violence – University health and counseling centers and Title IX compliance offices routinely investigate allegations of sexual assault, sexual harassment and domestic violence as well as provide assistance to alleged victims and alleged perpetrators. Allowing regulation in these areas would avoid situations where the University must allow disgruntled and seriously stressed parties to bring concealed weapons to investigative or other meetings, and would parallel existing state law making possession of a firearm on the grounds of a domestic violence shelter a crime.

5) During adjudication of staff or student disputes or disciplinary issues – The University routinely adjudicates staff and student disputes, disciplinary and academic issues. On the student side these cases frequently involve assaultive behavior. Allowing regulation would avoid a situation where the University would be required to allow combative and highly stressed students or employees to carry a concealed weapon to adjudications, and would be consistent with current state law that makes possession of a firearm in a court facility a crime.

All the above situations are analogous to situations that have been criminalized under state law. Absent the ability to regulate in these high-risk areas, UA will be placed in a situation where it

³ Literally thousands of K-12 students are on our campuses during the course of a year, taking classes, participating in outreach or other educational programming.

cannot act when harm is foreseeable, and cannot comply with the standard of care suggested by those statutes.⁴

Permitting regulation in these circumstances has value even if the regulations are not always followed. Even criminal law does not prevent all crimes from occurring. UA's policies, like criminal laws, allow UA to take potentially preventative action when it becomes aware of a violation that poses a threat of harm⁵ and to respond administratively when non-criminal violations occur. This is particularly important in the high conflict circumstances common on University campuses described above. UA requests that the bill be amended to permit UA to manage in these circumstances.

Concealed Carry Permit

SB 174 also omits the requirement in Senator Coghill's 2014 bill that a person obtain a concealed handgun permit as a condition to carry a concealed handgun at the university. In 2014 the university opposed concealed carry permits as a substitute for the University's ability to manage its students, workforce and property. For the reasons discussed in the 2014 memo to Senate Finance,⁶ a permit requirement alone is not an adequate substitute for the ability to manage in the sensitive areas described above.

However, a requirement that a person obtain a permit, in addition to the requested amendments providing University authority to regulate in these sensitive areas, makes sense in the university environment. A permit would require some training and knowledge about gun safety and applicable law, and exclude individuals with certain (but not all) criminal backgrounds from obtaining a permit.

Thank you for your consideration.

⁴ The University appreciates the fact that the bill includes an immunity provision. While that should be effective against state damage claims, that will not be much consolation if an avoidable incident occurs. State immunity also may not bar certain civil rights actions or administrative sanctions by federal agencies.

⁵The University is a small community where information about firearm possession may be shared by roommates, classmates or by the owner, sometimes willingly to brag or intimidate, and sometimes unwittingly.

⁶ Attachment A, March 31, 2014, UA General Counsel Memo to Senate Finance, at pp.7-8.

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Attachment A

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March 31, 2014

TO: The Honorable Pete Kelly, Co-Chair, Senate Finance
The Honorable Kevin Meyer, Co-Chair, Senate Finance

THROUGH: Pat Gamble, President, University of Alaska

FROM: Michael Hostina, General Counsel, University of Alaska &
Matt Cooper, Associate General Counsel

RE: Legal Issues Posed by the Judiciary CS for SB 176

Thank you for the opportunity to provide input regarding the legal issues posed by the Judiciary Committee Substitute for SB 176 (hereafter CS), a bill relating to the regulation of firearms by the University of Alaska.¹

The CS would require that the university permit concealed carry of handguns by permit holders on all parts of campus (other than in university pubs and in day care centers where other laws restrict possession). The CS provides that in student housing, the University could require the permit holder to provide proof of the permit and keep the handgun in a lock box when not concealed and within the person's immediate control.

The CS (and the original bill) create numerous practical and legal issues, but as discussed below, **neither are required to effectuate the constitutional right to bear arms.** In addition, both bills create compelling safety and risk management issues.

A. There Is No Constitutional Right To Carry Firearms On Developed University Premises

Supporters of the CS (and the original bill) argue that a bill is required because the University's present policy of limiting firearms on the developed premises of the University is unconstitutional. While they acknowledge that the University's policy addresses a compelling state interest in safety and prudent risk management, they argue that there is a constitutional right at issue, a "strict scrutiny" standard applies and that UA must use the least restrictive alternative to meet these compelling interests.

¹ Many of the issues raised by the CS overlap with issues raised by the original bill. Because the original bill was analyzed in a March 5, 2014, memo to Senate Majority Leader John Coghill and is part of the record, this memo will focus on the issues posed by the CS.

However, this analysis is based on a clearly flawed assumption, i.e., that there is a constitutional right to bear arms on developed University premises. That is not the case. The argument concludes with an additional error: that the CS is an alternative that would actually allow the University to address the compelling state interests of safety and prudent risk management.

1. The US Supreme Court Has Clearly Stated That Restrictions On Firearms On School Property And In Government Buildings Are “Presumptively Lawful”

The assumption that there is a constitutional right to carry firearms on school property or in government buildings is erroneous. If there was such a right, the legislature presently would be violating that right by **banning** firearms in the Capitol Building, on K-12 property, and in court system facilities.²

In *Heller*,³ the US Supreme Court case confirming the individual right to bear arms under the US Constitution, the majority stated that “[N]othing in our opinion should be taken to cast doubt on . . . laws forbidding the carrying of firearms in sensitive places such as schools and government buildings . . .”⁴ According to the *Heller* majority, such regulations are “*presumptively lawful*.”⁵ University premises are indisputably schools and/or government buildings. In addition, UA campuses are home to numerous partnerships and programs with K-12 that results in thousands of K-12 students being present on campus every day. Thus an individual has no constitutional right to carry a firearm on developed University premises.

Despite hundreds of cases contesting firearms restrictions since the 2008 decision in *Heller*, **there are no reported state or federal cases striking down university or college firearm regulations on constitutional grounds.**⁶ To the contrary, in a case⁷ contesting firearms restrictions imposed by George Mason University,⁸ the Virginia

² Federal case law is clear that a complete ban on firearms-related conduct that is in fact protected by the Second Amendment is unconstitutional. Thus for a ban to survive constitutional scrutiny, it must involve conduct not protected by the second amendment. Per *Heller* then, “presumptively lawful” firearms bans in schools and government buildings are not protected by the Second Amendment.

³ *District of Columbia v. Heller*, 554 U.S. 570 (2008).

⁴ *Id.* at 626– 627.

⁵ *Id.* at 627. “We identify these presumptively lawful regulatory measures only as examples; our list does not purport to be exhaustive.”

⁶ Supporters confuse cases involving conflicts between university policy and state law (University of Utah, University of Colorado, University of Florida) with cases questioning the constitutionality of university regulations in light of the Second Amendment or state analogues . The former involve questions of legislative authority, not constitutional rights.

⁷ *Digiacinto v. George Mason University*, 281 Va. 127, 704 S.E.2d 365 (Virginia 2011).

⁸ The George Mason regulation states: “Possession or carrying of any weapon by any person, except a police officer, is prohibited on university property in academic buildings, administrative office buildings,

Supreme Court held that George Mason University was both a government entity and a school and thus a “sensitive place”⁹ where under *Heller*, firearms restrictions are presumptively valid. The challenge to George Mason’s regulation was brought on both state and federal constitutional grounds. Though the appellant could have sought review of the federal constitutional issue by the US Supreme Court, no request for US Supreme Court review was filed.¹⁰

The same analysis holds true under the Alaska Constitution. In 1994 the voters of Alaska amended Alaska’s constitution to add the second sentence of Article I, Section 19, thus establishing an individual right to bear arms under Alaska’s Constitution. In *Wilson v. State*,¹¹ the Alaska Court of Appeals looked at whether the 1994 amendment to Article I, Section 19 invalidated Alaska law prohibiting felons from possessing firearms. Since voters had approved the amendment to the constitution, the Court of Appeals determined the breadth of the right by examining the “meaning placed on the amendment” by the voters. Because the voters had been assured that existing laws would not be affected by the amendment, the Court concluded that the voters had not intended to invalidate existing Alaska laws regulating firearms. Thus the voters who passed the amendment did not intend to create a constitutional right that extends, for example, to carrying firearms in schools, to concealed carry under 21, to courts or other government buildings, all of which were restricted in 1994.

2. Because Regents’ Policy And University Regulation Only Apply To Developed University Premises Which Are defined By The Courts As “Sensitive Places,” No Constitutional Right Is Implicated And Strict Scrutiny/Narrow Tailoring Requirements Do Not Apply

Since *Heller*, courts typically have adopted a two-step analysis in Second Amendment cases. The first step is to determine whether a challenged policy or law is outside the scope of the Second Amendment’s protection.

To determine whether a challenged law falls outside the historical scope of the Second Amendment, we ask whether the regulation is one of the “**presumptively lawful** regulatory measures” identified in *Heller*, 554 U.S. at 627 n. 26, . . .¹² (Emphasis in original.)

student residence buildings, dining facilities, or while attending sporting, entertainment or educational events. Entry upon the aforementioned university property in violation of this prohibition is expressly forbidden.” The court also held, presumably in the alternative, that this regulation was narrowly tailored.

⁹ *Digiacinto* 704 S.E.2d at 370. “The fact that George Mason is a school and that its buildings are owned by the government indicates that George Mason is a ‘sensitive place.’”

¹⁰ The National Rifle Association participated in the case as an amicus.

¹¹ 207 P.3d 565 (Alaska App. 2009).

¹² *Jackson v. San Francisco*, 2014 WL 1193434 (C.A.9 (Cal.), decided March 25, 2014).

If the restriction is presumptively lawful, as is the case with sensitive places including schools and government buildings, the analysis stops there and the restriction is considered presumptively constitutional.

However, even if the law is within the scope of the Second Amendment, there is no default to strict scrutiny. The appropriate level of scrutiny still must be determined. Whether “strict scrutiny” applies depends on two factors:

If a prohibition falls within the historical scope of the Second Amendment, we must then proceed to the second step of the Second Amendment inquiry to determine the appropriate level of scrutiny. *Chovan*, 735 F.3d at 1136. When ascertaining the appropriate level of scrutiny, “just as in the First Amendment context,” we consider: “(1) ‘how close the law comes to the core of the Second Amendment right’ and (2) ‘the severity of the law’s burden on the right.’” *Chovan*, 735 F.3d at 1138 (quoting *Ezell*, 651 F.3d at 703). . . .

As we explained in *Chovan*, laws which regulate only the “*manner* in which persons may exercise their Second Amendment rights” are less burdensome than those which bar firearm possession completely. [735 F.3d at 1138](#).¹³

Even if there were a constitutional right to bear arms in schools and government buildings, strict scrutiny would not apply in a case involving government regulation of firearms on government premises. The University’s policies do not restrict firearms in the broader community or constitute a ban, even on University premises. The University regulates firearms **only on University-controlled premises, in those limited areas for which it is responsible**.¹⁴ The University’s policy does not intrude into the community at large or into private homes to broadly restrict firearms possession or use. University restrictions apply only in a part of the broader community, i.e., on the University’s developed premises, and even then with exceptions. *Heller*’s broad declaration that firearms restrictions in sensitive places are presumptively lawful makes clear that it would be error (and perhaps disingenuous) to focus on a restriction’s impact in a limited area rather than on its impact in the community at large or in private homes. Otherwise the most narrowly tailored restriction could be shown to be unduly burdensome in that narrow area.

The University’s developed premises and buildings have been defined by both the courts and the Alaska legislature as sensitive places in which firearms regulation is

¹³ *Id.*

¹⁴ Such a restriction is analogous to permissible time, place and manner restrictions in First Amendment speech cases.

presumptively lawful and outside the scope of the Second Amendment's protections.¹⁵ As a result, no further constitutional analysis is appropriate, much less an analysis applying strict scrutiny.

B. Concealed Carry By Permit Is Not Less restrictive Or More Effective Than Current University Policy

For the reasons discussed below, the concealed carry permit system in the CS is not less restrictive than current policy in certain circumstances. The CS would potentially intrude on the rights of everyone who brings a firearm to campus while preventing the University from addressing the acknowledged compelling interests of safety and prudent risk management on UA campuses.¹⁶

1. UA's Current Policy Is Minimally Restrictive But Effective

UA's current policy does not ban long guns from campus, or require everyone bringing a handgun to campus to have a concealed carry permit. Absent special arrangements, weapons are not permitted in UA buildings, including student dorms, classrooms, labs and meeting places. Weapons are permitted: at approved and supervised activities, including rifle ranges, gun shows, etc.; in cars on streets and in parking lots; by faculty or staff in residences; on undeveloped and uninhabited land. Thus members of the public who are merely transiting campus or who cross undeveloped land currently face no constraints on their Second Amendment rights.

Bill supporters argue that the University's current policy does not prevent concealed guns on campus and thus creates safety and liability problems. This argument ignores the fact that a permit requirement also could be ignored and will create other difficulties. It also is based on a flawed assumption that rules only have value if they are followed. Even criminal law does not prevent all crimes from occurring. Nor does the CS simply preserve the status quo.

¹⁵ The Virginia Supreme Court put it this way: "Further, the statutory structure establishing GMU is indicative of the General Assembly's recognition that it is a sensitive place, and it is also consistent with the traditional understanding of a university. Unlike a public street or park, a university traditionally has not been open to the general public, "but instead is an institute of higher learning that is devoted to its mission of public education." Moreover, parents who send their children to a university have a reasonable expectation that the university will maintain a campus free of foreseeable harm." *Digiacinto* 704 S.E.2d at 370. (Citations omitted.)

¹⁶ If strict scrutiny applied, a court would consider whether the compelling government interest actually could be met by a less restrictive means. The test is thus two parts: is a less restrictive alternative available; and does the alternative still meet the compelling state interest. The CS does not meet those interests and thus does not demonstrate that there is a less restrictive alternative for the University's policy. Again, restrictions that apply only to schools and government buildings like the University's restrictions are excepted from Second Amendment coverage.

UA's policies, like criminal laws, allow UA to take action when it becomes aware of a violation, in this case, the presence of any weapon on developed premises.¹⁷ This is particularly important in problematic circumstances common on University campuses and described in more detail below. The CS, however, would prohibit any UA response even in circumstances when UA knows of a threatening situation and thus is likely to be held liable for failure to act.

C. The CS Prevents the University From Meeting Applicable Standards Of Care While Increasing The Potential For Foreseeable Harm and Liability

Generally the University only may be held liable for harm that occurs on campus if its actions have not met the standard of care that applies to a particular incident. However, if a crime or injury is "legally caused" by the University's breach of a standard of care it owes to the injured party, the University will be liable. The foreseeability of harm is an important factor in determining legal causation, particularly with respect to third-party acts.

1. A University Is In A Unique Position of Responsibility For Its Students

The standard of care imposed on the University with respect to students and other invitees on campus is quite high compared to the standard of care imposed, for example, on a municipality for public streets or open spaces like parks. This is due to a variety of factors, including that UA is deemed to be in control of its developed property, invites young people onto its property, educates, feeds and houses them under its supervision and is treated by parents, federal law and state common law as responsible to a significant degree for the well-being and safety of students.

2. The CS Prevents The University From Meeting Standards In State Law

The CS increases the likelihood that UA will be held liable for weapons-related crimes, as well as accidents and injuries relating to firearms. It does so by preventing UA from regulating firearms consistent with the standards in current state law. The CS would require that UA allow concealed carry permit holders to carry handguns in sensitive areas and situations on UA campuses when state law criminalizes firearms possession in similar circumstances off-campus. These situations include:

- Possession of a firearm on the grounds of a K-12 school is a crime - but the CS would require UA to permit firearms in areas where K-12 students are regularly on UA's 16

¹⁷Supporters discount the potential for identifying concealed carry. However, the University is a small community where information about firearm possession may be shared by roommates, classmates or by the owner, sometimes willingly to brag or intimidate, and sometimes unwittingly.

campuses in large numbers, sometimes in extended residential, enrichment and college prep programs, often daily after school.

- Concealed carry under 21 is a crime - but the CS would require permitting firearms in dorms where 60% of UA residential students are under 21, and where, unlike private housing, UA is the “adult” – UA retains authority and responsibility for dorms, and hires Resident Assistants to maintain safety, order and provide counseling;
- Possessing a loaded firearm in a place where intoxicating liquor is served is a crime - but the CS would require UA to permit firearms in dormitories where liquor is present;
- Possession of a firearm in a child care facility or adjacent parking lot is a crime - but the CS would require permitting firearms in nearby locations since both UAA and UAF have child care facilities integrated on campus;
- Possession of a firearm in a court facility is a crime, but the CS would require UA to permit firearms in potentially contentious adjudications of staff and student disciplinary and academic issues;
- Possession of a firearm on the grounds of a domestic violence shelter is a crime - but the CS would require UA to permit firearms in health and counseling centers as well as sexual harassment offices.

Supporters of the CS state that UA will be able to take action with respect to any crimes that are committed under these statutes. That is true, but misleading. UA will be placed in a situation where it cannot act before harm occurs where the harm is foreseeable, or apply the standard of care suggested by these statutes in analogous but non-criminal situations. However, UA will still be held to those higher standards.

The CS also would not allow UA to meet the standard of care related to the permit requirement. Other than in the dorms, the CS provides no authority for UA to determine whether someone who carries concealed actually has a permit. Thus while UA would be expected to ensure that only permit holders carry firearms on campus, it will be unable to do so.

3. The CS Does Not Meet Standards In The Report To The NRA By The National School Shield Task Force

Supporters of the CS argue that UA could be liable for failing to permit weapons on campus in the event of a mass shooting. That argument is not supported by any legal standard of which we are aware, and is inconsistent in at least two respects with recommendations (standards) contained in the Report to the NRA by the National School Shield Task Force.

That report recommends that schools react promptly to behavior that indicates a risk. Under present policy, UA can respond promptly to reports of any weapons possession on developed property and take appropriate action. Under the CS, that would no longer be the case. The CS would prevent restrictions on permit holders who have committed or who later commit certain crimes. The permit law allows one class A misdemeanor in the past 6 years. So UA could not restrict concealed carry if a permit holder: is convicted once, for example, of violating a protective order, stalking in the second degree, assault in the 4th degree, or is convicted of an Attempt or Solicitation of a Class C Felony.

The CS also would prohibit UA from restricting weapons of permit holders whose behavior indicates risk apart from convictions. For example, someone who is known to possess firearms on campus and who is involuntarily hospitalized for psychological evaluation (which often ends without a formal finding of mental illness or formal commitment for treatment), or who exhibits warning signs including depression, suicidal ideation or gestures, or overt hostility or aggression (everyday occurrences on residential college campuses) could not be deprived of his/her weapons.¹⁸ That's because no state law prohibits possession of weapons by those with psychological disturbances; federal law prohibits possession by those "adjudicated as a mental defective" or "committed to a mental institution." These formal mental health adjudications are relatively rare. Foreseeability of harm creates an expectation and standard that UA will respond when troubling events occur.

The same NRA-sponsored report recommends 60-80 hours of training for selected school employees who are authorized to be armed. By contrast, a concealed carry permit requires only 12 hours of self-defense, legal and weapons handling training. Permittees self-select.

Thus under the CS or the original bill, UA's policy could not meet the NRA's recommended standard for possession of firearms on school grounds or for responding to indicators of threats.

D. Summary And Conclusion

UA's policies are presumptively constitutional because they apply to "sensitive places" identified in federal and state law, i.e., schools and government buildings, and involve circumstances analogous to longstanding prohibitions. Even if that were not the case,

¹⁸ Jared Lee Loughner was suspended from Pima County Community College for bizarre behavior three months before he killed six people at a constituent's meeting with Representative Gabrielle Giffords. Despite evidence of mental illness he apparently was never formally adjudicated and remained eligible to possess weapons under state and federal law. He thus would have been eligible for a concealed carry permit applying Alaska standards.

strict scrutiny would not be applicable to restrictions that are time, place and manner oriented and that do not apply to broader communities or private homes.

The University's current policy is constitutional, minimally restrictive, and, in contrast to the proposed legislation, effective. Current policy allows the University to take action precisely when harm is foreseeable. By contrast, the proposed legislation would prevent the University from taking action with respect to weapons in problematic circumstances that are commonplace on university campuses. As a result, the rationale for this legislation is fundamentally flawed.

Taken together these limitations will result in inability to remove offenders with weapons from campus, loss of control over conduct on UA premises, and dramatically limit UA's ability to intervene early in conflicts or unsafe behavior. This creates greater potential for situations in which UA is unable to act to prevent foreseeable harm to third parties and greater potential for liability.

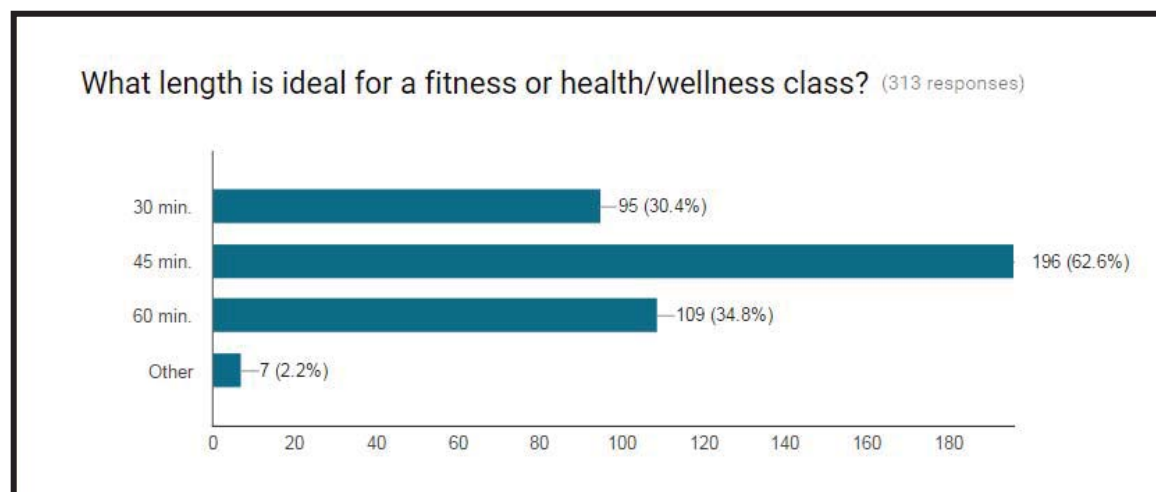
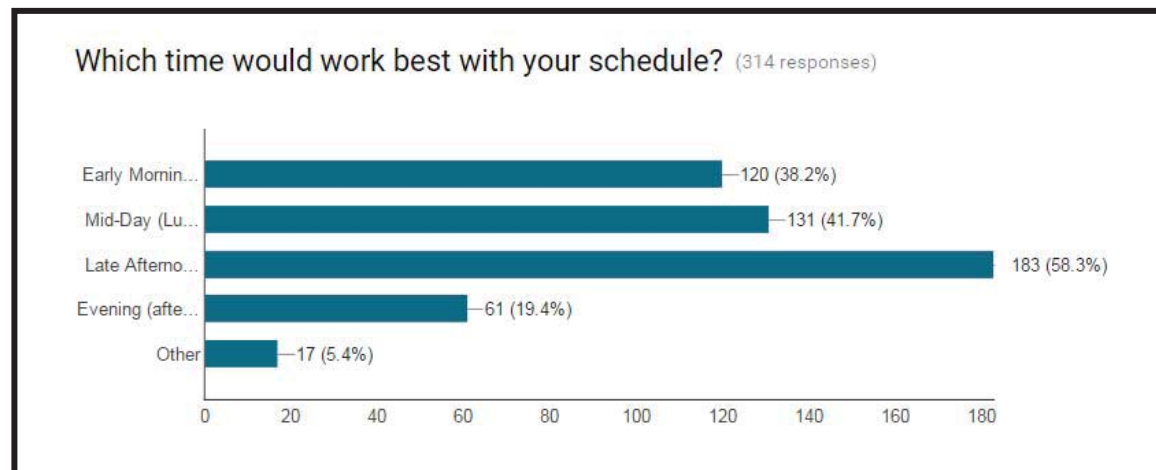
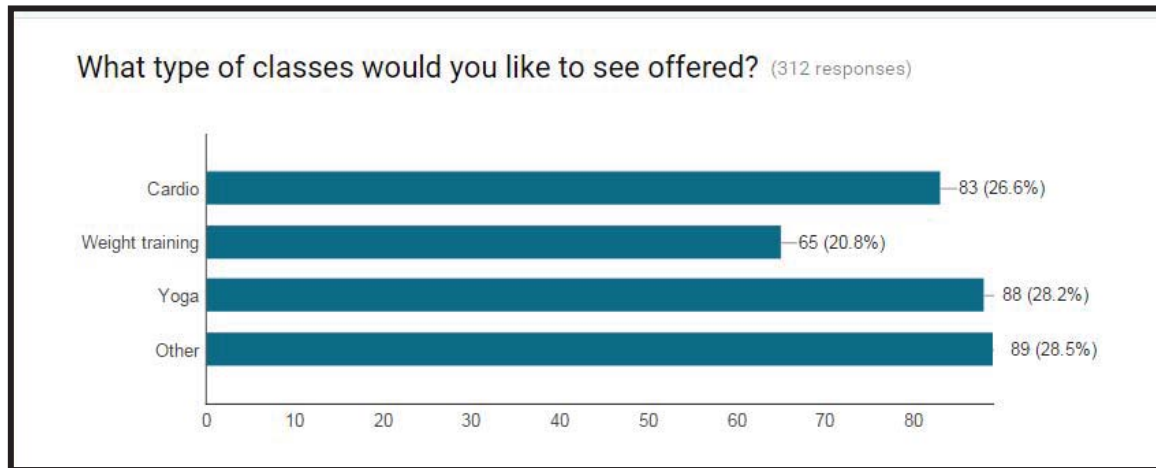
Because UA owes a duty of care to students and invitees on campus, and because the CS as well as the original bill would prohibit UA from meeting the standard of care suggested by existing state law and other sources of applicable standards, in circumstances where harm is foreseeable, this legislation will lead to an increased potential for liability in the event of weapons-related crimes or accidental injuries on campus.

Violence on campus is extremely rare. However, legislation that forecloses the possibility of proactive response to behavior that places the University on notice of foreseeable harm is not sound public policy and should be avoided, particularly where it solves no other problem.

| | | |
|-----------------|---|----------------------------------|
| 3/15/2016 | Membership & Rules Committee Report | |
| 1 | Quorum is met. Roll Call - Trish Winners, Melissa Parks, Brad Krick, Jessica MacCallum, Amanda Wall, Mathew Mund Guests: Brandi Marrero, Phil Jacobs, Nicole Dufour | |
| 2 | Greeted new M&R members - Amanda Wall & Melissa Parks! | |
| 3 | Discussed: Tie-breakers in elections; Special Guests: Brandi & Phil from Elections The group felt the best idea is to have a run-off vote to just include the folks who tied. M&R will look at updating the bylaws to reflect this; Elections will look into other software or applications that could simplify this task, particularly the new ASUAF elections software. It must allow vetting of WHO can vote, as the run-off still must be voted on only by the affected unit. Hopefully new software will shorten the process for Nicole; Nicole may have a time issue. Also, run-off election turn-around time should be limited to 1 week; full election must be done in time to allow reps to take their places before Orientation Jan/Feb. | T.Winners/B.Ma rrero/P.Jacobs |
| 4 | Section 8 Motion - All approve. Send a copy to Nicole. Update Motions Log. Bring motion to April SC meeting. https://docs.google.com/document/d/1AxW9JqIHqzqPBvLKhZuSRwF7RxtxzMVVW-18drbERYXw/edit | M.Mund |
| 5 | Finished Bylaw Review of Section 9 & 10; added 11 for Parliamentary Authority. Small changes to Section 10. Bring motion to April SC meeting. | T.Winners |
| 6 | Unit Review - Motion to Combine USA Departments into Unit 7. Some members of the group wanted to ensure the unit reps got feedback from their constituents before this change was made. Trish forwarded motion to the reps to share with their units; feedback was favorable to the change. Motion written and approved by M&R and reps. Bring to April SC meeting. https://drive.google.com/drive/folders/0B5r3amZ5UkkgZml4eG4wY0tBTIU | T.Winners/M&R Team |
| 7 | Unit Review - Connie Huizenga/Computer Science; move from Unit 10 to Unit 3. Everyone agreed to the change and approved the motion, but Trish modified the motion to clarify that computer science was always under CEM, but was split. Motion was updated and sent to unit reps and M&R. Feedback was favorable to motion. Bring motion to April SC meeting. https://drive.google.com/drive/folders/0B5r3amZ5UkkgZ0gtSldYbFI2TXc | T.Winners/M&R Team |
| 8 | SC Meeting Notes gathered/compiled & sent out to SC reps in Word format to revise/share. | A.Wall/B.Krick/ M.Mund |
| | Action Items: | |
| | Elections Tie-breakers - M&R update bylaws to allow run-off in case of tie, 1 week turn-around. Elections to consider new software that can make this simpler. | |
| | Bylaws Section 8 Motion - Send to Nicole. Sent 3/15 | DONE |
| | Bylaws Sections 9&10(& new 11) - Group approved changes, Trish to wrote motion. | DONE |
| | Unit Review - USA to Unit 7 - Trish will update wording to be "effective at the next regular election", instead of "immediately." Then forward to reps and to Nicole for SC vote. Updated and sent to M&R for approval 3/15. | DONE |
| | Trish to modify the motion to clarify that computer science was always under CEM, but was split; send to Nicole. | DONE |
| | Update Motions Log | |
| | Future Business: | |
| | The Executive Board feels Membership & Rules is the right group to define the At-Large Rep role. We will begin a full discussion of this at a later meeting. A few ideas were brought up during the meeting including having the more experienced reps take the floating roles and mentor new reps, also perhaps have the floaters responsible for 3 units each for which they mentor and serve as a proxy as needed, perhaps only vote when they are serving as a proxy. | |
| MEMBERS: | Trish Winners (C), Jessica MacCallum, Brad Krick, Mathew Mund, Amanda Wall, Melissa Parks | 6 |
| | <i>Where M&R Spells Fun!</i> | |

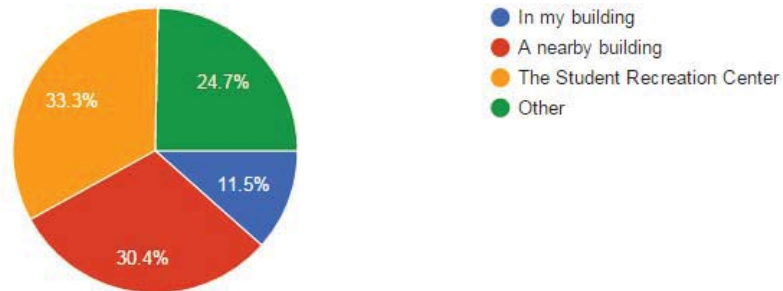
Healthy Nanook Survey - Results

Fall 2015 - Spring 2016



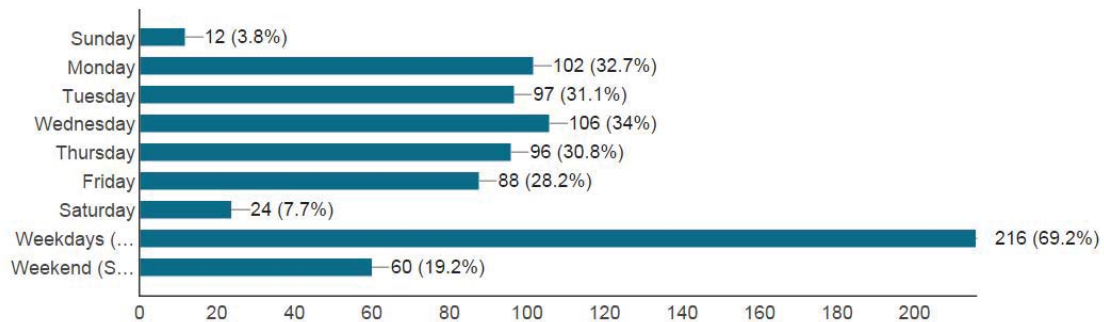
Healthy Nanook Survey - Results
Fall 2015 - Spring 2016

Where would you be willing to attend classes? (312 responses)

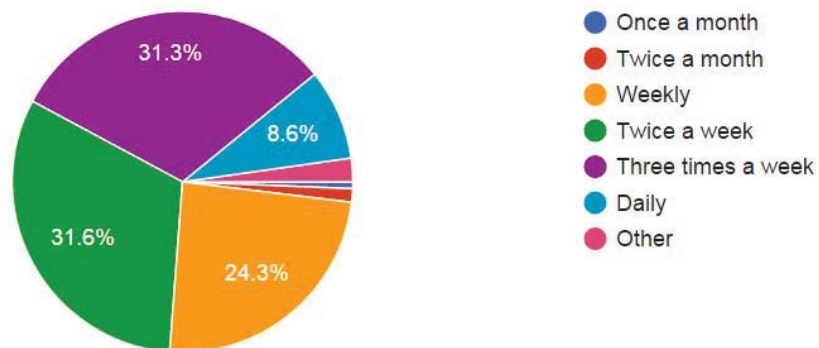


What days of the week would you like to see these classes offered?

(312 responses)

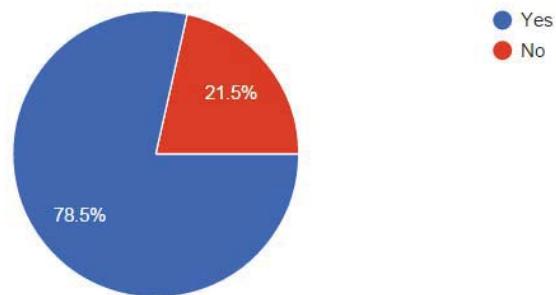


How often would you be willing to meet for class? (313 responses)



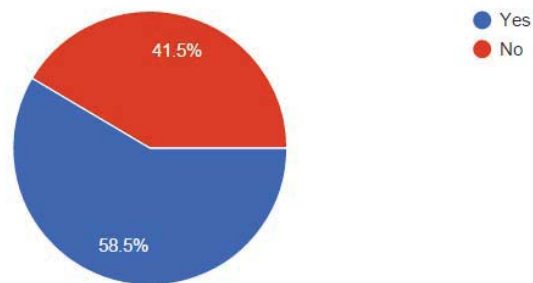
Would you be willing to contribute toward the cost for the class instructor
(instructor cost is generally \$10 - \$15 per hour)?

(312 responses)



Would you also be interested in group sessions related to workplace wellness
and/or nutrition?

(311 responses)



Master Planning Committee
Report for Staff Council Meeting #270
April 2016

Brad Krick, Representative; Alternate Not Filled

MPC met on March 24. The March 10 meeting was cancelled due to a lack of agenda items.

Student Representative on MPC

The committee's previous student representative has resigned due to scheduling conflicts. The committee is looking for a new student representative.

Summer Construction

Facilities Services is in the process of putting together a summer construction map. There is some activity happening, but not as much as recent years.

Work on the Himalaya Trail by Bear's crew (running along the hillside between the Haida Lot and IAB Greenhouse) will continue this summer, thanks to money from the UAF Alumni Association.

Campus Core Vehicle Access / Problems with Bollards

There was some discussion about the problems with bollards installed between Gruening and Wickersham. One problem is that vehicles have damaged the installed bollards. It is hoped that this might go away as drivers become more used to this area no longer being a thoroughfare.

A second problem is that the bollards, once lowered, can still damage vehicles. A UAF fire truck's tire was damaged when it drove over a lowered bollard. According to Facilities Services, the basic problem is that there are no bollard systems that are built for our freeze/thaw cycle - bollards that could retract so that they are flush with the ground would have problems with an Alaskan winter. They're still looking for a solution.

Next Meeting

Master Planning is scheduled to meet again on April 7 and April 21.



Staff Alliance

Resolution 2016-02

Opposing SB 174 “An Act relating to the regulation of firearms and knives by the University of Alaska”

Whereas, the University of Alaska Staff Alliance is comprised of eight elected representatives of UA staff, from all three UA campuses and from UA statewide offices;

Whereas, the University of Alaska presented its position on SB 174 via a position paper issued on February 12, 2016 (attached);

Whereas, the University of Alaska affirmed the Constitutionality of its policies in a 2016 letter from UA General Counsel to the Senate Finance committee (attached);

Whereas, the University of Alaska outlined its clear concerns with regard to campus safety and concealed carry handguns on campus in the 2016 letter from General Counsel to Senate Finance;


Whereas, the Staff Alliance agrees that the University of Alaska’s policies regarding weapons on campus are reasonable and prudent;

Whereas, the Coalition of Student Leaders of the University of Alaska voted to oppose SB 174 and provided testimony in opposition during their legislative advocacy event;

Whereas, SB 174 would make it more difficult for the University of Alaska to proactively take measures to prevent violence on its campuses;

Now, therefore be it resolved that, the Staff Alliance opposes SB 174, “An Act relating to the regulation of firearms and knives by the University of Alaska.”

Adopted by Staff Alliance the 16th day of March 2016.



Faye Gallant, Chair

Voting results as attested by Morgan Dufseth, Executive Officer:

Yes – 6

No – 0

Abstained – 2

February 12, 2016

**University of Alaska Concerns About SB 174
Concealed Carry on Campus**

SB 174 takes away most of the Board of Regents' authority to regulate the carrying of concealed handguns and knives at the university, even by persons who don't have a concealed carry permit.

As drafted, the legislation would preclude the Board of Regents and University administration from effectively managing student and employee conflicts and campus safety issues where concealed weapons are involved. The Board of Regents and UA Administration oppose the bill in its current form. The following details the University's concerns about the proposed legislation and explains changes requested by the University.

Differences Between the University and State or Municipal Governments. Unlike state or municipal laws, the University's firearms regulations do not extend into the community at large. University policy and regulation only apply to conduct in University buildings and on UA's developed property.¹ These rules do not establish criminal penalties, and primarily affect students and University employees.

In addition, these rules are required to permit the University to manage areas, situations and people *for which the University is responsible*. This distinction is critical because unlike the state or a municipality, the University must proactively manage and is responsible for how thousands of students and employees interact as they live, eat, work and play on its premises.

Critical Changes Requested – UA does not support this bill because it eliminates UA's ability to effectively manage student and employee conflicts and safety issues where concealed weapons are involved. However, amendment to permit regulation in the highly sensitive situations discussed below would address a number of concerns.

¹ The University believes its current policy and regulations are constitutional and allow it to effectively deal with safety issues as they arise. Firearms are permitted: at approved and supervised activities, including rifle ranges, gun shows, etc.; in cars located on streets or in parking lots; by faculty or staff in residences and by dormitory students in approved storage, and while transporting firearms directly to residences or dormitory storage locations; and on undeveloped and uninhabited university land. As detailed in a March 31, 2014 memo to Senate Finance, the constitutional right to bear arms is not implicated when restrictions apply only to sensitive places such as schools and government buildings. That memo is attached as Appendix A.

The University must have rules to effectively manage the following critical situations. In addition, these situations are analogous to situations in which concealed carry is criminalized under current state law. However, because of technical distinctions, they fall short of coverage by criminal law, and could not be regulated by the University under the current bill. UA requests amendment to permit regulation in the following circumstances to address these critical safety issues:

1) When the behavior of students or employees demonstrate they pose a risk of harm to themselves or others - The Report to the NRA by the National School Shield Task Force recommends that schools react promptly to behavior that indicates a risk. However, under the bill as structured, a student or employee who exhibits behavior indicating they pose a risk of harm to themselves or others, or who exhibits warning signs including depression, suicidal gestures, or overt hostility or aggression (everyday occurrences on residential college campuses) could not be deprived of his/her concealed weapons.² The Americans with Disabilities Act and comparable state law prohibits the university from simply removing mentally ill individuals from campus. Allowing regulation that provides a reviewable process to prohibit or restrict troubled individuals from possessing weapons on campus would provide an essential tool to keep campuses safe while complying with state and federal anti-discrimination law. This is particularly true given the high rate of suicide in Alaska, and the increased fatality rates associated with suicide attempts using firearms.

2) In student dormitories or other shared living quarters – Unlike private homes, student housing and dorms provide a high density, communal living environment for the convenience of students. Unlike private landlords, UA has significantly more responsibility for student well-being. UA serves as the “adult,” through residence advisors and other staff, monitoring student well-being, resolving disputes, and requiring compliance with rules. More than half of resident students are under 21 years old, may not legally carry concealed weapons, and do not necessarily get to choose their roommates. The bill would result in concealed weapons being present in dorms where they would be accessible to ineligible roommates and transient guests, and where alcohol is readily available for consumption. Allowing regulation that would prohibit possession of concealed weapons in shared student residences would be

² This is the case even if the person is involuntarily hospitalized for psychological evaluation, if the evaluation ends without a formal finding of mental illness or formal commitment for treatment. Unless a person is formally adjudicated mentally ill he/she remains eligible to possess weapons under state and federal law. While this may be appropriate in the broader community, it is not required for “sensitive places” like schools, universities and government buildings in which there is no constitutional right to carry weapons.

consistent with existing age limits on concealed carry, alcohol restrictions on possession of firearms, as well as with requirements for “adult resident” consent to concealed carry in a residence.

3) In university programs for K-12 students and in facilities where programming for K-12 students is provided – The University runs numerous dedicated programs for K-12 students on university premises.³ These include programs like Mat-Su Middle College and ANSEP at UAA, Upward Bound and RAHI at UAF, and summer college experience programming at UAS. Allowing regulation in this area would avoid a situation where the University cannot manage these programs consistent with existing state law that generally criminalizes adult possession of deadly and defensive weapons on K-12 grounds, in buildings, and at K-12 events.

4) In university facilities housing health and counseling services or other services related to sexual harassment or violence – University health and counseling centers and Title IX compliance offices routinely investigate allegations of sexual assault, sexual harassment and domestic violence as well as provide assistance to alleged victims and alleged perpetrators. Allowing regulation in these areas would avoid situations where the University must allow disgruntled and seriously stressed parties to bring concealed weapons to investigative or other meetings, and would parallel existing state law making possession of a firearm on the grounds of a domestic violence shelter a crime.

5) During adjudication of staff or student disputes or disciplinary issues – The University routinely adjudicates staff and student disputes, disciplinary and academic issues. On the student side these cases frequently involve assaultive behavior. Allowing regulation would avoid a situation where the University would be required to allow combative and highly stressed students or employees to carry a concealed weapon to adjudications, and would be consistent with current state law that makes possession of a firearm in a court facility a crime.

All the above situations are analogous to situations that have been criminalized under state law. Absent the ability to regulate in these high-risk areas, UA will be placed in a situation where it

³ Literally thousands of K-12 students are on our campuses during the course of a year, taking classes, participating in outreach or other educational programming.

cannot act when harm is foreseeable, and cannot comply with the standard of care suggested by those statutes.⁴

Permitting regulation in these circumstances has value even if the regulations are not always followed. Even criminal law does not prevent all crimes from occurring. UA's policies, like criminal laws, allow UA to take potentially preventative action when it becomes aware of a violation that poses a threat of harm⁵ and to respond administratively when non-criminal violations occur. This is particularly important in the high conflict circumstances common on University campuses described above. UA requests that the bill be amended to permit UA to manage in these circumstances.

Concealed Carry Permit

SB 174 also omits the requirement in Senator Coghill's 2014 bill that a person obtain a concealed handgun permit as a condition to carry a concealed handgun at the university. In 2014 the university opposed concealed carry permits as a substitute for the University's ability to manage its students, workforce and property. For the reasons discussed in the 2014 memo to Senate Finance,⁶ a permit requirement alone is not an adequate substitute for the ability to manage in the sensitive areas described above.

However, a requirement that a person obtain a permit, in addition to the requested amendments providing University authority to regulate in these sensitive areas, makes sense in the university environment. A permit would require some training and knowledge about gun safety and applicable law, and exclude individuals with certain (but not all) criminal backgrounds from obtaining a permit.

⁴ The University appreciates the fact that the bill includes an immunity provision. While that should be effective against state damage claims, that will not be much consolation if an avoidable incident occurs. State immunity also may not bar certain civil rights actions or administrative sanctions by federal agencies.

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⁶ Attachment A, March 31, 2014, UA General Counsel Memo to Senate Finance, at pp.7-8.

Michael Hostina
General Counsel

Ardith Lynch
Associate General Counsel

Michael O'Brien
Associate General Counsel

Matthew Cooper
Associate General Counsel

Andy Harrington
Associate General Counsel



UNIVERSITY
of ALASKA
Many Traditions One Alaska

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February 12, 2016

TO: The Honorable Pete Kelly, Co-Chair, Senate Finance

FROM: Michael Hostina, General Counsel, University of Alaska, &
Matt Cooper, Associate General Counsel

RE: University Concerns Regarding SB 174 & Request for Changes

Thank you for the opportunity to comment on SB 174. As drafted, the legislation would preclude the Board of Regents and University administration from effectively managing student and employee conflicts and campus safety issues where concealed weapons are involved. We are writing to express the University's concerns about the proposed legislation and to request changes.

Differences Between the University and State or Municipal Governments. Unlike state or municipal laws, the University's firearms regulations do not extend into the community at large. University policy and regulation only apply to conduct in University buildings and on UA's developed property.¹ These rules do not establish criminal penalties, and primarily affect students and University employees.

In addition, these rules are required to permit the University to manage areas, situations and people *for which the University is responsible*. This distinction is critical because unlike the state or a municipality, the University must proactively manage and is responsible for how thousands of students and employees interact as they live, eat, work and play on its premises.

Critical Changes Requested – UA does not support this bill because it eliminates UA's ability to effectively manage student and employee conflicts and safety issues where concealed weapons are involved. However, amendment to permit regulation in the highly sensitive situations discussed below would address a number of concerns.

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The University must have rules to effectively manage the following critical situations. In addition, these situations are analogous to situations in which concealed carry is criminalized under current state law. However, because of technical distinctions, they fall short of coverage by criminal law, and could not be regulated by the University under the current bill. UA requests amendment to permit regulation in the following circumstances to address these critical safety issues:

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2) In student dormitories or other shared living quarters – Unlike private homes, student housing and dorms provide a high density, communal living environment for the convenience of students. Unlike private landlords, UA has significantly more responsibility for student well-being. UA serves as the “adult,” through residence advisors and other staff, monitoring student well-being, resolving disputes, and requiring compliance with rules. More than half of resident students are under 21 years old, may not legally carry concealed weapons, and do not necessarily get to choose their roommates. The bill would result in concealed weapons being present in dorms where they would be accessible to ineligible roommates and transient guests, and where alcohol is readily available for consumption. Allowing regulation

² This is the case even if the person is involuntarily hospitalized for psychological evaluation, if the evaluation ends without a formal finding of mental illness or formal commitment for treatment. Unless a person is formally adjudicated mentally ill he/she remains eligible to possess weapons under state and federal law. While this may be appropriate in the broader community, it is not required for “sensitive places” like schools, universities and government buildings in which there is no constitutional right to carry weapons.

that would prohibit possession of concealed weapons in shared student residences would be consistent with existing age limits on concealed carry, alcohol restrictions on possession of firearms, as well as with requirements for “adult resident” consent to concealed carry in a residence.

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cannot act when harm is foreseeable, and cannot comply with the standard of care suggested by those statutes.⁴

Permitting regulation in these circumstances has value even if the regulations are not always followed. Even criminal law does not prevent all crimes from occurring. UA's policies, like criminal laws, allow UA to take potentially preventative action when it becomes aware of a violation that poses a threat of harm⁵ and to respond administratively when non-criminal violations occur. This is particularly important in the high conflict circumstances common on University campuses described above. UA requests that the bill be amended to permit UA to manage in these circumstances.

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SB 174 also omits the requirement in Senator Coghill's 2014 bill that a person obtain a concealed handgun permit as a condition to carry a concealed handgun at the university. In 2014 the university opposed concealed carry permits as a substitute for the University's ability to manage its students, workforce and property. For the reasons discussed in the 2014 memo to Senate Finance,⁶ a permit requirement alone is not an adequate substitute for the ability to manage in the sensitive areas described above.

However, a requirement that a person obtain a permit, in addition to the requested amendments providing University authority to regulate in these sensitive areas, makes sense in the university environment. A permit would require some training and knowledge about gun safety and applicable law, and exclude individuals with certain (but not all) criminal backgrounds from obtaining a permit.

Thank you for your consideration.

⁴ The University appreciates the fact that the bill includes an immunity provision. While that should be effective against state damage claims, that will not be much consolation if an avoidable incident occurs. State immunity also may not bar certain civil rights actions or administrative sanctions by federal agencies.

⁵The University is a small community where information about firearm possession may be shared by roommates, classmates or by the owner, sometimes willingly to brag or intimidate, and sometimes unwittingly.

⁶ Attachment A, March 31, 2014, UA General Counsel Memo to Senate Finance, at pp.7-8.

Michael Hostina
General Counsel

Matthew Cooper
Associate General Counsel

Ardith Lynch
Associate General Counsel

Michael O'Brien
Associate General Counsel

Larry Zervos
Associate General Counsel

Attachment A



UNIVERSITY
of ALASKA
Many Traditions One Alaska

Attachment 270-7

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March 31, 2014

TO: The Honorable Pete Kelly, Co-Chair, Senate Finance
The Honorable Kevin Meyer, Co-Chair, Senate Finance

THROUGH: Pat Gamble, President, University of Alaska

FROM: Michael Hostina, General Counsel, University of Alaska &
Matt Cooper, Associate General Counsel

RE: Legal Issues Posed by the Judiciary CS for SB 176

Thank you for the opportunity to provide input regarding the legal issues posed by the Judiciary Committee Substitute for SB 176 (hereafter CS), a bill relating to the regulation of firearms by the University of Alaska.¹

The CS would require that the university permit concealed carry of handguns by permit holders on all parts of campus (other than in university pubs and in day care centers where other laws restrict possession). The CS provides that in student housing, the University could require the permit holder to provide proof of the permit and keep the handgun in a lock box when not concealed and within the person's immediate control.

The CS (and the original bill) create numerous practical and legal issues, but as discussed below, **neither are required to effectuate the constitutional right to bear arms.** In addition, both bills create compelling safety and risk management issues.

A. There Is No Constitutional Right To Carry Firearms On Developed University Premises

Supporters of the CS (and the original bill) argue that a bill is required because the University's present policy of limiting firearms on the developed premises of the University is unconstitutional. While they acknowledge that the University's policy addresses a compelling state interest in safety and prudent risk management, they argue that there is a constitutional right at issue, a "strict scrutiny" standard applies and that UA must use the least restrictive alternative to meet these compelling interests.

¹ Many of the issues raised by the CS overlap with issues raised by the original bill. Because the original bill was analyzed in a March 5, 2014, memo to Senate Majority Leader John Coghill and is part of the record, this memo will focus on the issues posed by the CS.

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However, this analysis is based on a clearly flawed assumption, i.e., that there is a constitutional right to bear arms on developed University premises. That is not the case. The argument concludes with an additional error: that the CS is an alternative that would actually allow the University to address the compelling state interests of safety and prudent risk management.

1. The US Supreme Court Has Clearly Stated That Restrictions On Firearms On School Property And In Government Buildings Are “Presumptively Lawful”

The assumption that there is a constitutional right to carry firearms on school property or in government buildings is erroneous. If there was such a right, the legislature presently would be violating that right by **banning** firearms in the Capitol Building, on K-12 property, and in court system facilities.²

In *Heller*,³ the US Supreme Court case confirming the individual right to bear arms under the US Constitution, the majority stated that “[N]othing in our opinion should be taken to cast doubt on . . . laws forbidding the carrying of firearms in sensitive places such as schools and government buildings . . .”⁴ According to the *Heller* majority, such regulations are “*presumptively lawful*.”⁵ University premises are indisputably schools and/or government buildings. In addition, UA campuses are home to numerous partnerships and programs with K-12 that results in thousands of K-12 students being present on campus every day. Thus an individual has no constitutional right to carry a firearm on developed University premises.

Despite hundreds of cases contesting firearms restrictions since the 2008 decision in *Heller*, **there are no reported state or federal cases striking down university or college firearm regulations on constitutional grounds.**⁶ To the contrary, in a case⁷ contesting firearms restrictions imposed by George Mason University,⁸ the Virginia

² Federal case law is clear that a complete ban on firearms-related conduct that is in fact protected by the Second Amendment is unconstitutional. Thus for a ban to survive constitutional scrutiny, it must involve conduct not protected by the second amendment. Per *Heller* then, “presumptively lawful” firearms bans in schools and government buildings are not protected by the Second Amendment.

³ *District of Columbia v. Heller*, 554 U.S. 570 (2008).

⁴ *Id.* at 626– 627.

⁵ *Id.* at 627. “We identify these presumptively lawful regulatory measures only as examples; our list does not purport to be exhaustive.”

⁶ Supporters confuse cases involving conflicts between university policy and state law (University of Utah, University of Colorado, University of Florida) with cases questioning the constitutionality of university regulations in light of the Second Amendment or state analogues . The former involve questions of legislative authority, not constitutional rights.

⁷ *Digiacinto v. George Mason University*, 281 Va. 127, 704 S.E.2d 365 (Virginia 2011).

⁸ The George Mason regulation states: “Possession or carrying of any weapon by any person, except a police officer, is prohibited on university property in academic buildings, administrative office buildings,

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Supreme Court held that George Mason University was both a government entity and a school and thus a “sensitive place”⁹ where under *Heller*, firearms restrictions are presumptively valid. The challenge to George Mason’s regulation was brought on both state and federal constitutional grounds. Though the appellant could have sought review of the federal constitutional issue by the US Supreme Court, no request for US Supreme Court review was filed.¹⁰

The same analysis holds true under the Alaska Constitution. In 1994 the voters of Alaska amended Alaska’s constitution to add the second sentence of Article I, Section 19, thus establishing an individual right to bear arms under Alaska’s Constitution. In *Wilson v. State*,¹¹ the Alaska Court of Appeals looked at whether the 1994 amendment to Article I, Section 19 invalidated Alaska law prohibiting felons from possessing firearms. Since voters had approved the amendment to the constitution, the Court of Appeals determined the breadth of the right by examining the “meaning placed on the amendment” by the voters. Because the voters had been assured that existing laws would not be affected by the amendment, the Court concluded that the voters had not intended to invalidate existing Alaska laws regulating firearms. Thus the voters who passed the amendment did not intend to create a constitutional right that extends, for example, to carrying firearms in schools, to concealed carry under 21, to courts or other government buildings, all of which were restricted in 1994.

2. Because Regents’ Policy And University Regulation Only Apply To Developed University Premises Which Are defined By The Courts As “Sensitive Places,” No Constitutional Right Is Implicated And Strict Scrutiny/Narrow Tailoring Requirements Do Not Apply

Since *Heller*, courts typically have adopted a two-step analysis in Second Amendment cases. The first step is to determine whether a challenged policy or law is outside the scope of the Second Amendment’s protection.

To determine whether a challenged law falls outside the historical scope of the Second Amendment, we ask whether the regulation is one of the “**presumptively lawful** regulatory measures” identified in *Heller*, 554 U.S. at 627 n. 26, . . .¹² (Emphasis in original.)

student residence buildings, dining facilities, or while attending sporting, entertainment or educational events. Entry upon the aforementioned university property in violation of this prohibition is expressly forbidden.” The court also held, presumably in the alternative, that this regulation was narrowly tailored.

⁹ *Digiacinto* 704 S.E.2d at 370. “The fact that George Mason is a school and that its buildings are owned by the government indicates that George Mason is a ‘sensitive place.’”

¹⁰ The National Rifle Association participated in the case as an amicus.

¹¹ 207 P.3d 565 (Alaska App. 2009).

¹² *Jackson v. San Francisco*, 2014 WL 1193434 (C.A.9 (Cal.), decided March 25, 2014).

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If the restriction is presumptively lawful, as is the case with sensitive places including schools and government buildings, the analysis stops there and the restriction is considered presumptively constitutional.

However, even if the law is within the scope of the Second Amendment, there is no default to strict scrutiny. The appropriate level of scrutiny still must be determined. Whether “strict scrutiny” applies depends on two factors:

If a prohibition falls within the historical scope of the Second Amendment, we must then proceed to the second step of the Second Amendment inquiry to determine the appropriate level of scrutiny. *Chovan*, 735 F.3d at 1136. When ascertaining the appropriate level of scrutiny, “just as in the First Amendment context,” we consider: “(1) ‘how close the law comes to the core of the Second Amendment right’ and (2) ‘the severity of the law’s burden on the right.’” *Chovan*, 735 F.3d at 1138 (quoting *Ezell*, 651 F.3d at 703). . . .

As we explained in *Chovan*, laws which regulate only the “*manner* in which persons may exercise their Second Amendment rights” are less burdensome than those which bar firearm possession completely. [735 F.3d at 1138](#).¹³

Even if there were a constitutional right to bear arms in schools and government buildings, strict scrutiny would not apply in a case involving government regulation of firearms on government premises. The University’s policies do not restrict firearms in the broader community or constitute a ban, even on University premises. The University regulates firearms **only on University-controlled premises, in those limited areas for which it is responsible**.¹⁴ The University’s policy does not intrude into the community at large or into private homes to broadly restrict firearms possession or use. University restrictions apply only in a part of the broader community, i.e., on the University’s developed premises, and even then with exceptions. *Heller*’s broad declaration that firearms restrictions in sensitive places are presumptively lawful makes clear that it would be error (and perhaps disingenuous) to focus on a restriction’s impact in a limited area rather than on its impact in the community at large or in private homes. Otherwise the most narrowly tailored restriction could be shown to be unduly burdensome in that narrow area.

The University’s developed premises and buildings have been defined by both the courts and the Alaska legislature as sensitive places in which firearms regulation is

¹³ *Id.*

¹⁴ Such a restriction is analogous to permissible time, place and manner restrictions in First Amendment speech cases.

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presumptively lawful and outside the scope of the Second Amendment's protections.¹⁵ As a result, no further constitutional analysis is appropriate, much less an analysis applying strict scrutiny.

B. Concealed Carry By Permit Is Not Less restrictive Or More Effective Than Current University Policy

For the reasons discussed below, the concealed carry permit system in the CS is not less restrictive than current policy in certain circumstances. The CS would potentially intrude on the rights of everyone who brings a firearm to campus while preventing the University from addressing the acknowledged compelling interests of safety and prudent risk management on UA campuses.¹⁶

1. UA's Current Policy Is Minimally Restrictive But Effective

UA's current policy does not ban long guns from campus, or require everyone bringing a handgun to campus to have a concealed carry permit. Absent special arrangements, weapons are not permitted in UA buildings, including student dorms, classrooms, labs and meeting places. Weapons are permitted: at approved and supervised activities, including rifle ranges, gun shows, etc.; in cars on streets and in parking lots; by faculty or staff in residences; on undeveloped and uninhabited land. Thus members of the public who are merely transiting campus or who cross undeveloped land currently face no constraints on their Second Amendment rights.

Bill supporters argue that the University's current policy does not prevent concealed guns on campus and thus creates safety and liability problems. This argument ignores the fact that a permit requirement also could be ignored and will create other difficulties. It also is based on a flawed assumption that rules only have value if they are followed. Even criminal law does not prevent all crimes from occurring. Nor does the CS simply preserve the status quo.

¹⁵ The Virginia Supreme Court put it this way: "Further, the statutory structure establishing GMU is indicative of the General Assembly's recognition that it is a sensitive place, and it is also consistent with the traditional understanding of a university. Unlike a public street or park, a university traditionally has not been open to the general public, "but instead is an institute of higher learning that is devoted to its mission of public education." Moreover, parents who send their children to a university have a reasonable expectation that the university will maintain a campus free of foreseeable harm." *Digiacinto* 704 S.E.2d at 370. (Citations omitted.)

¹⁶ If strict scrutiny applied, a court would consider whether the compelling government interest actually could be met by a less restrictive means. The test is thus two parts: is a less restrictive alternative available; and does the alternative still meet the compelling state interest. The CS does not meet those interests and thus does not demonstrate that there is a less restrictive alternative for the University's policy. Again, restrictions that apply only to schools and government buildings like the University's restrictions are excepted from Second Amendment coverage.

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UA's policies, like criminal laws, allow UA to take action when it becomes aware of a violation, in this case, the presence of any weapon on developed premises.¹⁷ This is particularly important in problematic circumstances common on University campuses and described in more detail below. The CS, however, would prohibit any UA response even in circumstances when UA knows of a threatening situation and thus is likely to be held liable for failure to act.

C. The CS Prevents the University From Meeting Applicable Standards Of Care While Increasing The Potential For Foreseeable Harm and Liability

Generally the University only may be held liable for harm that occurs on campus if its actions have not met the standard of care that applies to a particular incident. However, if a crime or injury is "legally caused" by the University's breach of a standard of care it owes to the injured party, the University will be liable. The foreseeability of harm is an important factor in determining legal causation, particularly with respect to third-party acts.

1. A University Is In A Unique Position of Responsibility For Its Students

The standard of care imposed on the University with respect to students and other invitees on campus is quite high compared to the standard of care imposed, for example, on a municipality for public streets or open spaces like parks. This is due to a variety of factors, including that UA is deemed to be in control of its developed property, invites young people onto its property, educates, feeds and houses them under its supervision and is treated by parents, federal law and state common law as responsible to a significant degree for the well-being and safety of students.

2. The CS Prevents The University From Meeting Standards In State Law

The CS increases the likelihood that UA will be held liable for weapons-related crimes, as well as accidents and injuries relating to firearms. It does so by preventing UA from regulating firearms consistent with the standards in current state law. The CS would require that UA allow concealed carry permit holders to carry handguns in sensitive areas and situations on UA campuses when state law criminalizes firearms possession in similar circumstances off-campus. These situations include:

- Possession of a firearm on the grounds of a K-12 school is a crime - but the CS would require UA to permit firearms in areas where K-12 students are regularly on UA's 16

¹⁷Supporters discount the potential for identifying concealed carry. However, the University is a small community where information about firearm possession may be shared by roommates, classmates or by the owner, sometimes willingly to brag or intimidate, and sometimes unwittingly.

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campuses in large numbers, sometimes in extended residential, enrichment and college prep programs, often daily after school.

- Concealed carry under 21 is a crime - but the CS would require permitting firearms in dorms where 60% of UA residential students are under 21, and where, unlike private housing, UA is the “adult” – UA retains authority and responsibility for dorms, and hires Resident Assistants to maintain safety, order and provide counseling;
- Possessing a loaded firearm in a place where intoxicating liquor is served is a crime - but the CS would require UA to permit firearms in dormitories where liquor is present;
- Possession of a firearm in a child care facility or adjacent parking lot is a crime - but the CS would require permitting firearms in nearby locations since both UAA and UAF have child care facilities integrated on campus;
- Possession of a firearm in a court facility is a crime, but the CS would require UA to permit firearms in potentially contentious adjudications of staff and student disciplinary and academic issues;
- Possession of a firearm on the grounds of a domestic violence shelter is a crime - but the CS would require UA to permit firearms in health and counseling centers as well as sexual harassment offices.

Supporters of the CS state that UA will be able to take action with respect to any crimes that are committed under these statutes. That is true, but misleading. UA will be placed in a situation where it cannot act before harm occurs where the harm is foreseeable, or apply the standard of care suggested by these statutes in analogous but non-criminal situations. However, UA will still be held to those higher standards.

The CS also would not allow UA to meet the standard of care related to the permit requirement. Other than in the dorms, the CS provides no authority for UA to determine whether someone who carries concealed actually has a permit. Thus while UA would be expected to ensure that only permit holders carry firearms on campus, it will be unable to do so.

3. The CS Does Not Meet Standards In The Report To The NRA By The National School Shield Task Force

Supporters of the CS argue that UA could be liable for failing to permit weapons on campus in the event of a mass shooting. That argument is not supported by any legal standard of which we are aware, and is inconsistent in at least two respects with recommendations (standards) contained in the Report to the NRA by the National School Shield Task Force.

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That report recommends that schools react promptly to behavior that indicates a risk. Under present policy, UA can respond promptly to reports of any weapons possession on developed property and take appropriate action. Under the CS, that would no longer be the case. The CS would prevent restrictions on permit holders who have committed or who later commit certain crimes. The permit law allows one class A misdemeanor in the past 6 years. So UA could not restrict concealed carry if a permit holder: is convicted once, for example, of violating a protective order, stalking in the second degree, assault in the 4th degree, or is convicted of an Attempt or Solicitation of a Class C Felony.

The CS also would prohibit UA from restricting weapons of permit holders whose behavior indicates risk apart from convictions. For example, someone who is known to possess firearms on campus and who is involuntarily hospitalized for psychological evaluation (which often ends without a formal finding of mental illness or formal commitment for treatment), or who exhibits warning signs including depression, suicidal ideation or gestures, or overt hostility or aggression (everyday occurrences on residential college campuses) could not be deprived of his/her weapons.¹⁸ That's because no state law prohibits possession of weapons by those with psychological disturbances; federal law prohibits possession by those "adjudicated as a mental defective" or "committed to a mental institution." These formal mental health adjudications are relatively rare. Foreseeability of harm creates an expectation and standard that UA will respond when troubling events occur.

The same NRA-sponsored report recommends 60-80 hours of training for selected school employees who are authorized to be armed. By contrast, a concealed carry permit requires only 12 hours of self-defense, legal and weapons handling training. Permittees self-select.

Thus under the CS or the original bill, UA's policy could not meet the NRA's recommended standard for possession of firearms on school grounds or for responding to indicators of threats.

D. Summary And Conclusion

UA's policies are presumptively constitutional because they apply to "sensitive places" identified in federal and state law, i.e., schools and government buildings, and involve circumstances analogous to longstanding prohibitions. Even if that were not the case,

¹⁸ Jared Lee Loughner was suspended from Pima County Community College for bizarre behavior three months before he killed six people at a constituent's meeting with Representative Gabrielle Giffords. Despite evidence of mental illness he apparently was never formally adjudicated and remained eligible to possess weapons under state and federal law. He thus would have been eligible for a concealed carry permit applying Alaska standards.

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strict scrutiny would not be applicable to restrictions that are time, place and manner oriented and that do not apply to broader communities or private homes.

The University's current policy is constitutional, minimally restrictive, and, in contrast to the proposed legislation, effective. Current policy allows the University to take action precisely when harm is foreseeable. By contrast, the proposed legislation would prevent the University from taking action with respect to weapons in problematic circumstances that are commonplace on university campuses. As a result, the rationale for this legislation is fundamentally flawed.

Taken together these limitations will result in inability to remove offenders with weapons from campus, loss of control over conduct on UA premises, and dramatically limit UA's ability to intervene early in conflicts or unsafe behavior. This creates greater potential for situations in which UA is unable to act to prevent foreseeable harm to third parties and greater potential for liability.

Because UA owes a duty of care to students and invitees on campus, and because the CS as well as the original bill would prohibit UA from meeting the standard of care suggested by existing state law and other sources of applicable standards, in circumstances where harm is foreseeable, this legislation will lead to an increased potential for liability in the event of weapons-related crimes or accidental injuries on campus.

Violence on campus is extremely rare. However, legislation that forecloses the possibility of proactive response to behavior that places the University on notice of foreseeable harm is not sound public policy and should be avoided, particularly where it solves no other problem.

**University Advocacy
Committee Report
April 2016
Chair: Jami Warrick**

The University Advocacy Committee met on March 16.

The committee briefly discussed the Staff Volunteer Day proposal and how we could move forward with it given that there is no provision for administrative leave. It was suggested that we choose a specific day (May 7 was mentioned), partner with community organizations in need of donated time, and allow staff to choose how best to allocate their efforts. Some of the organizations mentioned included the Fairbanks Community Food Bank, Stone Soup Cafe, Chena Lakes, Cooperative Extension, and Pioneer Park. Additional suggestions are welcome. I offered to inquire with Frances Isgrigg, Director of EHSRM, regarding any associated liability. We can also work with Nate Bauer for information on the proposed plan up to this point.

The survey results for the proposed offering of reduced or no cost health/wellness and exercise classes show that staff are largely in favor. The draft results are attached for your reference. These results were shared with Kaydee Miller with DRAW to support her proposal. They will likely need to determine how the instructor(s) will be paid in order to move forward. Jami will follow up with Kaydee to see if there is additional support that we can offer.

The staff mentoring initiative consists of two potential approaches: the development of professional groups (as suggested by Margo Griffith with UAF HR) to support staff, as well as one-on-one mentors to address such issues as morale, workplace culture, etc. Margo had suggested that we meet with the TED team, as many of the functions of the professional groups would align with the issues that TED has been working to address. I had reached out to TED, and will update you when we are able to meet with them.

Sustainability in Dining Committee Report – April 2016**Mathew Mund, Staff Council Representative to Committee**

Three students working with the UAF Office of Sustainability have established a process for the Food Recovery Network. When Chartwell's has leftover edible food, they will freeze and store the food in boxes provided by the Office of Sustainability. The student volunteers will pick up the food on a month basis and deliver it to either the Door, Center for Non-violence Living or the Boys and Girls Club. No food has been frozen yet due to Chartwell's practice of small batch cooking.

University of Alaska Fairbanks

Staff Council

Staff Survey - SB174 (Guns on Campus)

RESULTS

On March 7-8, 2016, UAF Staff Council surveyed unrepresented staff members regarding their opinions of SB174 'An act relating to the regulation of firearms and knives by the University of Alaska,' which was under discussion by the Alaska State Senate.

This one question survey was designed to provide Staff Council Representatives with information that could be used to reach an informed decision and official position on this controversial subject. The short timeline was needed to allow UAF Staff Council to respond quickly with the voice of staff, in light of the tight legislative timeline.

Those taking the one question survey were provided with links to the following reference documents:

- The official bill documents (available on the Alaska Legislature's SB174 website)
www.akleg.gov/basis/Bill/Detail/29?Root=SB%20174
- UA's Position on SB174, as of March 7-8, 2016
www.alaska.edu/state/advoacay
- President Johnsen's memo containing requested amendments to SB174
www.alaska.edu/files/state/2016.02.12-Memo-to-Sen-Kelly---SB-174-Concealed-Carry--signed-w-att.pdf

Survey Results:

(391 Total Responses)

| | # of responses | % |
|---|-------------------|-------|
| I support SB174 as written | 57 | 14.6% |
| I support SB174 with the amendments proposed by the university | 96 | 24.6% |
| I oppose SB174 | 220 | 56.3% |
| I do not have an opinion on SB174 | 7 | 1.8% |
| Other | 11 | 2.8% |

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RESOLUTION REGARDING SENATE BILL 174:

WHEREAS, Senate Bill 174 (“SB 174”), without amendments, would prevent the university from responding to common, known, high risk and high conflict situations involving concealed firearms and knives on university property; and

WHEREAS, the Board of Regents and University of Alaska administration, after careful consideration, have determined that amendments to SB 174 are required to permit critical and timely responses. These include allowing regulation of weapons in the following areas:

- *when a student or employee demonstrates a risk of harm to self or others;*
- *in student dormitories and other shared living quarters, where, unlike private residences, some 60% of occupants are under 21, communal living rules are enforced by student Resident Advisors and UA serves as the “adult,” residents live in close quarters and share facilities such as bathrooms and lounges, students and transient visitors have greater access to rooms, and alcohol is frequently present;*
- *in university facilities housing health and counseling services or other services related to sexual harassment or violence;*
- *during adjudication of staff or student disputes or disciplinary issues;*
- *within parts of facilities used for dedicated programs for preschool, elementary, junior high and secondary students, when such programs are occurring;*
- *with concealed carry permits, since a student or employee carrying concealed in UA common areas, critical infrastructure, classrooms and labs should have some training and knowledge of gun safety and applicable law and be subject to a criminal background check; and*

WHEREAS, the first five of these situations are analogous but not identical to situations in which concealed carry is criminalized under current law; and

WHEREAS, unlike state or municipal laws, university regulations do not extend into the community at large, do not impose criminal penalties, and are required to allow the university to manage areas, situations and people for which the university is responsible; and

WHEREAS, the US Supreme Court has clearly stated that restrictions on firearms in sensitive places such as schools and in government buildings are “presumptively lawful;” and

WHEREAS, university policy and regulations have value even if, like criminal law, they are sometimes circumvented, because policy and regulation allow the university to take preventive action when it becomes aware of a violation that poses a threat of harm; and

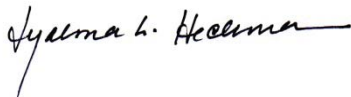
WHEREAS, the bill sponsor and the Senate Education Committee have incorporated some but not all of the amendments requested by the university into a committee substitute bill, and those amendments may still be altered or removed in the legislative process;

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF REGENTS OF THE UNIVERSITY OF ALASKA:

For the reasons stated herein and many others detailed in position papers, the Board of Regents opposes SB 174 in its current form and respectfully requests that the bill include all of the above amendments; and

BE IT FURTHER RESOLVED that the Board of Regents respectfully requests that Legislators and the Governor oppose this bill in its current form so that it does not become law, and respectfully urges Alaskans to oppose SB 174 without the requested amendments.

Signed on behalf of the Board of Regents by:

A handwritten signature in black ink, appearing to read "Jyotsna L. Heckman", with a long horizontal flourish extending to the right.

Jyotsna Heckman, Chair

Weapons Q & A (rev. 3-22-16)

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Q. How will SB174, if passed and signed by the Governor, change what happens on UA campuses?

A. If the Senate Education committee substitute (version N) becomes law, the Board of Regents' authority to regulate concealed carry of handguns and knives beyond existing law will be limited to these areas or situations:

- when the behavior of a student or an employee demonstrates that the student or employee poses a risk of harm to self or others
- in student dormitories or other shared living quarters;
- in parts of facilities where health services, counseling services, or other services related to sexual harassment or violence are provided;
- in parts of facilities where adjudication of staff or student disciplinary issues take place;
- in restricted access areas beyond secure points.

The proposed law ***only applies to the concealed carry of handguns and knives***. The University will continue to regulate the concealed carry of other weapons and the open carry of any weapon.

Q. How is the university administration trying to change this bill to keep campuses safe?

A. The university is seeking support for two additional amendments, as well as for the amendments incorporated so far. Early in the legislative process, it became apparent that the bill had broad support in the legislature. To make sure the university retained the ability to respond to specific critical situations, the university asked for 6 amendments to the current bill. Four have been incorporated in the current version of the bill:

1. (incorporated) When student or employee behavior indicates a risk of harm to themselves or others;
2. (incorporated) In student dormitories or other shared student living quarters;
3. (incorporated) In Health and Counseling, Discrimination, Harassment and Title IX offices;
4. (incorporated) During adjudication of staff or student disputes or disciplinary issues;

The university is seeking two additional amendments:

5. *In dedicated programs for K-12 students consistent with state law that generally criminalizes adult possession of weapons on K-12 grounds, buildings and events;*
6. *Requiring a concealed carry permit to carry concealed weapons on campus*

Q. Where can I find a copy of the bill?

A. <http://www.akleg.gov/basis/Bill/Detail/29?Root=SB%20174>

Q. How can voice my concern about this legislation?

A. This UA State Relations site has information about the process and advocacy needed for SB174. <http://www.alaska.edu/state/advocacy>. Remember – the amendments the university sought can be removed, so please support the existing amendments as well as the two additional amendments.

Q. What will happen if this legislation passes? Does the law become effective immediately?

A. The law will become effective ninety days after it is signed by the Governor. The Board of Regents will amend UA policy to conform to the law. UA leadership remains committed to maintaining a safe work and learning environment.

Weapons Q & A (rev. 3-22-16)

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Q. Who makes decisions about the university's campus carry policy? Under the circumstances, should those decisions be made now?

A. The University of Alaska Board of Regents is responsible for setting and amending the university's policies. At a special meeting March 25 the Regents will receive an update on SB174 and discuss possible related changes to UA's weapons policy. The possible changes would be consistent with the changes sought by the university to SB 174.

Q: If SB 174 passes, what does this legislation mean for the campuses? Who would be able to carry a weapon on campus property?

A: Alaska state law *as proposed in SB 174*, would allow anyone age 21 and above who can legally possess a handgun or knife to carry it concealed on and in University of Alaska properties and facilities, with some restrictions. The bill would allow the University to regulate open carry, and concealed carry in certain areas. ***The bill has not yet become law, so current policy and regulation remain in effect.***

Q. Would metal detectors be installed?

A. If the bill passes, the University will likely need to review its facilities to determine whether existing secured areas are adequate and whether additional secured areas are needed. Part of that review will look at methods to secure areas, including metal detectors and security guards.

Q. How much would this change cost the university?

A. Initially, the university estimates the cost would be about \$1.3 million to comply with the new law. The University expects that ongoing costs will be approximately \$800,000 per year.

Q. What is the current UA policy as directed by the Board of Regents?

A. The policy can be found at: <http://www.alaska.edu/bor/policy/02-09.pdf> Generally, firearms are permitted: at approved and supervised activities, including rifle ranges, gun shows, etc.; in cars located on streets or in parking lots; by faculty or staff in residences and by dormitory students in approved storage, and while transporting firearms directly to residences or dormitory storage locations; and on undeveloped and uninhabited university land.

Staff Health Care Committee, March 4, 2016

Meeting notes

From Kathleen McCoy

Attending by teleconference: Melodee Monson UAA (alt for Danielle Dixon UAA), Maureen Hunt UAA Mat-Su (alt), Lesli Walls UAF, Linda Hall SW, Monique Musick SW, Wendy Miles UAS, Gwenna Richardson UAS, Kayti Coonjohn UAS (alt), Kathleen McCoy UAA.

Not attending: Marie Williams UAA, Danielle Dixon UAA, David Bantz UAF (alt), Susan Mitchell UAF (alt), Arthur Hussey, SW (alt), Stacy Howdeshell UAF.

Guest:

Timothy Armbruster, UA Benefits Lead Accountant

JHCC set premium rates for FY 17, and UA approved. (see attached). Timothy explained that a steep drop in plan membership could still affect these rates, though not drastically. Currently projected is a 7% decline or about 300 people. Also, JHCC chose to apply \$1M of a projected \$1.5M over recovery from FY16 – still underway until Jun 30 --toward keeping health plan premiums at the lowest, Option A. for FY17. Unused wellness rebates do account for at least part of the projected over recovery.

Deductible for Consumer Driven Health Plan CDHP increased to \$1500 for the individual and \$3000 for the family, but out of pocket was capped at \$6,850, down from \$11,000, to comply with Affordable Care Act requirements.

Legislature/UA budget: Monique mentioned that the Senate finance subcommittee on UA will recommend a \$325M budget for UA, compared to House recommendation of \$300M. Watch for the [Capitol Report](#) by Chris Christiansen to stay up on UA and legislative budget discussions.

Fairbanks oncology: Tim said negotiations are underway between Premera, Mike Powers of UAF and the out-of-network oncologists in Fairbanks. Anchorage has 17 in-network oncologists. Existing patients will continue at the same level of coverage through June 30. New patients, and existing patients beginning July 1 will pay at in-network levels (80 percent) of 125% Medicare.

Service experience: Experience reports with auxiliary services like Patient Care, Nurse Line and Best Doctors are always welcome, Timothy said. We pay for their services and have expectations of their delivery; so please report experience to Erika and Timothy so they can address any shortcomings with the vendor.

Health Travel Benefits: Timothy said the list of 17 approved travel reasons is gone from the website as of Jan. 1. He said plan members can travel for any procedures;

he advises calling Premera to check in. UA health travel benefit will pay at the IRS allowable rates. Usually travel expenses are paid up front and reimbursed, though Timothy said check with Premera if that is a problem. A companion traveler, if deemed medically necessary, will also be covered at the IRS allowable rates. Includes \$30/day toward car rental. Timothy said the Blue Cross network is huge, and health travelers can consider destinations beyond Seattle where they have family. Timothy said Premera is working up a new brochure on health travel benefit.

Doctors and Premera network status: Timothy said ENT doctors are out of network in Fairbanks and in Anchorage. Orthopedic surgeons are mostly out of network in Anchorage, though a recent business merger between two big practices in Anchorage suggests some movement for some smaller practices to come back in network as a defense against what some might consider a monopoly.

125% Medicare out of network issue: Timothy said Premera and UA benefits are drawing up some illustrative scenarios to better explain how out-of-network payments are handled. He said UA benefits and Premera have heard the complaints from plan members who did not understand the impact. Timothy confirmed that Premera is delivering an analysis of impact on health plan members based on the July 1, 2016 start of out of network payments at the 125% Medicare level. This will be an issue at the March JHCC, date not set yet.

Posters by SHCC: SHCC has long had a desire to increase communication to health plan members. Rather than a comprehensive approach to everything about the health plan (as UA Benefits is charged with) SHCC is more interested in targeting key messages to warn against costly mistakes, and to advise use of auxiliary benefits like Best Doctors, Nurse Line and Patient Care to help plan members make cost-effective health decisions.

At today's meeting we agreed on two ideas for graphic designers to work up. There are more ideas on our Road Map spread sheet, but at least we can start with these. I'll share these with Kayti Coonjohn and Danielle Dixon, volunteer graphic artists, so they can draft up posters for us. UA Benefits will review for accuracy.

1.

Going out-of-network for your health care will cost you more:

- 'allowable rate' set at 125% Medicare
- unlimited balance billing
- won't count toward out-of-pocket maximum

2.

What would you rather pay: 20% of \$20,000, or 20% of \$10,000?

*When it comes to health care costs, location matters. Alaska has the country's highest costs. If you need a procedure, investigate Premera's health travel benefit, paid at IRS-approved levels and covering medically-necessary travel partners. **You don't have to pay Alaska prices.***

Next meeting: We will Doodle poll for a meeting time after the next JHCC meeting, which is planned for late March, exact date not yet set.

ALSO, SHCC member requested 90-minute meeting slots. We can always end early, but we should allow enough time for full discussion if we need it. Kathleen will advise Morgan.