

DISTRICT COURT, EL PASO COUNTY
STATE OF COLORADO

Court Address: P.O. Box 2980
Colorado Springs, CO 80901-2980

COURT USE ONLY

STUDENTS FOR CONCEALED CARRY ON CAMPUS,
LLC, a Texas limited liability company; MARTHA ALTMAN;
ERIC MOTE; and JOHN DAVIS,

Plaintiffs,

v.

THE REGENTS OF THE UNIVERSITY OF COLORADO;
STEPHEN LUDWIG, CINDY CARLISLE, PATRICIA
HAYES, MICHAEL CARRIGAN, TOM LUCERO, STEVE
BOSLEY, KYLE HYBL, PAUL SCHAUER, and TILMAN
BISHOP, all in their official capacities as Regents; JIM SPICE,
in his official capacity as Chief of Campus Police, University of
Colorado at Colorado Springs; PAM SHOCKLEY-ZALABAK,
in her official capacity as Chancellor, University of Colorado at
Colorado Springs; DOUG ABRAHAM, in his official capacity
as Chief of Campus Police, University of Colorado Denver; and
M. ROY WILSON, in his official capacity as Chancellor,
University of Colorado Denver,

Defendants.

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Attorneys for Plaintiffs

Case No.:

Division:

Courtroom:

COMPLAINT

COME NOW Plaintiffs, Students for Concealed Carry on Campus, LLC, Eric Mote, John Davis, and Martha Altman, by and through undersigned counsel, and for their claims against Defendants state as follows:

INTRODUCTION

1. This lawsuit seeks enforcement of the Colorado statute creating uniform statewide standards regarding the carrying of concealed handguns and enforcement of the right to keep and bear arms protected by the Colorado Constitution. Adults trained and licensed to carry concealed handguns are authorized by Colorado law to carry in all areas of the State, except as specifically restricted by the statute, and the statute expressly prohibits local regulations to the contrary. It is the policy of the Regents of the University of Colorado to ignore the statutory prohibition on contrary local regulations. Instead, the Regents ban licensed concealed carry, and possession of all other weapons, on all University of Colorado campuses. This policy not only violates the Colorado statutes concerning concealed handgun licensing, but it also is an unreasonable regulation of the right to keep and bear arms in violation of the Colorado Constitution.

JURISDICTION AND VENUE

2. This Court has jurisdiction over Plaintiffs' claims for relief pursuant to article VI, § 9 of the Colorado Constitution. Venue is proper under Colorado Rule of Civil Procedure 98(b)(2) in any jurisdiction where the Board of Regents or its agents enforce the Regents' laws and policies. This matter involves enforcement of Regents Policy 14-I at the University of Colorado at Colorado Springs ("UCCS") campus in El Paso County and the University of Colorado Denver ("UCD") campus in Denver County; thus, venue is proper in El Paso County, Colorado.

PARTIES

3. Plaintiff Students for Concealed Carry on Campus, LLC ("SCCC"), is a membership organization incorporated under the laws of Texas with its principal place of business in Houston, Texas. SCCC has over 30,000 members and supporters in the United States and over 200 members in Colorado, including at least 50 in El Paso County. The purposes of SCCC include securing through education, outreach, and litigation the constitutional and statutory right to privately own, possess, and carry firearms within Colorado. SCCC brings this action on behalf of itself and its members.

4. Plaintiff Martha Altman is a citizen of the United States, residing in Highlands Ranch, Colorado. Ms. Altman possesses a valid permit to carry a concealed handgun, issued in 2006 pursuant to C.R.S. § 18-12-206. Ms. Altman is a single mother and an undergraduate student at UCD pursuing degrees in Business Management and Health Care Administration. Ms. Altman is a member of the SCCC chapter at UCD.

5. Plaintiff Eric Mote is a citizen of the United States, residing in Colorado Springs, Colorado. Mr. Mote possesses a valid permit to carry a concealed handgun, issued in 2008 pursuant to C.R.S. § 18-12-206. Mr. Mote graduated in May 2008 from UCCS with a bachelor's degree in Electrical and Computer Engineering and he works as a contract engineer. He also volunteers with the Colorado Springs Police Department in the financial crimes division. Mr. Mote is a co-founder and member of the SCCC chapter at UCCS.

6. Plaintiff John Davis is a citizen of the United States, residing in Colorado Springs, Colorado. Mr. Davis possesses a valid permit to carry a concealed handgun, issued in 2008 pursuant to C.R.S. § 18-12-206. Mr. Davis is a senior studying Geography and Environmental Studies at UCCS. Before attending UCCS he spent 12 years in the military, including active duty as a rifle and pistol instructor, and he is a Sergeant in the U.S. Army Reserves. Mr. Davis is a co-founder and member of the SCCC chapter at UCCS.

7. Plaintiffs Altman, Mote, and Davis have met all the requirements of C.R.S. § 18-12-203: They are residents of Colorado, are over 21 years old, have no history of substance abuse or criminal activity, are not subject to a protection order, have demonstrated competency with a handgun, and have been approved by their local Sheriffs to carry a concealed handgun.

8. Defendants Regents of the University of Colorado comprise the constitutionally created governing board of the University of Colorado. Colo. Const. art. IX, § 12. Unless a statute or constitutional provision provides otherwise, the Regents are responsible for general supervision of the University. Colo. Const. art. VIII, § 5. In that capacity the Regents currently are enforcing the policy complained of in this action and are sued in their official capacities.

9. Defendant Stephen Ludwig is a member of the Board of Regents of the University of Colorado and is responsible with the other Regents for general supervision of the University. In that capacity he currently is enforcing the policy complained of in this action and is sued in his official capacity.

10. Defendant Cindy Carlisle is a member of the Board of Regents of the University of Colorado and is responsible with the other Regents for general supervision of the University. In that capacity she currently is enforcing the policy complained of in this action and is sued in her official capacity.

11. Defendant Patricia Hayes is a member of the Board of Regents of the University of Colorado and is responsible with the other Regents for general supervision of the University. In that capacity she currently is enforcing the policy complained of in this action and is sued in her official capacity.

12. Defendant Michael Carrigan is a member of the Board of Regents of the University of Colorado and is responsible with the other Regents for general supervision of the University. In

that capacity he currently is enforcing the policy complained of in this action and is sued in his official capacity.

13. Defendant Tom Lucero is a member of the Board of Regents of the University of Colorado and is responsible with the other Regents for general supervision of the University. In that capacity he currently is enforcing the policy complained of in this action and is sued in his official capacity.

14. Defendant Steve Bosley is a member of the Board of Regents of the University of Colorado and is responsible with the other Regents for general supervision of the University. In that capacity he currently is enforcing the policy complained of in this action and is sued in his official capacity.

15. Defendant Kyle Hybl is a member of the Board of Regents of the University of Colorado and is responsible with the other Regents for general supervision of the University. In that capacity he currently is enforcing the policy complained of in this action and is sued in his official capacity.

16. Defendant Paul Schauer is a member of the Board of Regents of the University of Colorado and is responsible with the other Regents for general supervision of the University. In that capacity he currently is enforcing the policy complained of in this action and is sued in his official capacity.

17. Defendant Tilman Bishop is a member of the Board of Regents of the University of Colorado and is responsible with the other Regents for general supervision of the University. In that capacity he currently is enforcing the policy complained of in this action and is sued in his official capacity.

18. Defendant Jim Spice is Chief of Campus Police for the University of Colorado at Colorado Springs and is responsible for enforcing the policy complained of in this action. He is sued in his official capacity.

19. Defendant Pam Shockley-Zalabak is Chancellor of the University of Colorado at Colorado Springs and is responsible for enforcing the policy complained of in this action. She is sued in her official capacity.

20. Defendant Doug Abraham is Chief of Campus Police for the University of Colorado Denver and is responsible for enforcing the policy complained of in this action. He is sued in his official capacity.

21. Defendant M. Roy Wilson is Chancellor of the University of Colorado Denver and is responsible for enforcing the policy complained of in this action. He is sued in his official capacity.

STATEMENT OF FACTS

22. The Board of Regents is a public body corporate formed for the purpose of providing local governance for the University of Colorado. Colo. Const. art. IX, § 12, art. VIII, § 5(2).

23. The Regents are authorized to provide local governance for the University of Colorado unless a statute or constitutional provision “otherwise provides by law,” thereby limiting that authority. Colo. Const. art. VIII, § 5(2).

24. Colorado Revised Statutes §§ 18-12-201 to -216 limit the Regents’ authority as “otherwise provided by law” because §§ 18-12-201 to -216 create comprehensive legislation addressing a matter of statewide concern.

25. The Colorado General Assembly found that:

There exists a widespread inconsistency among jurisdictions within the state with regard to the issuance of permits to carry concealed handguns and identification of areas of the state where it is lawful to carry concealed handguns.

C.R.S. § 18-12-201(1)(a).

26. The Colorado General Assembly found that:

This inconsistency among jurisdictions creates public uncertainty regarding the areas of the state in which it is lawful to carry concealed handguns.

C.R.S. § 18-12-201(1)(b).

27. The Colorado General Assembly found that:

The criteria and procedures for the lawful carrying of concealed handguns historically has been regulated by state statute and should be consistent throughout the state to ensure the consistent implementation of state law.

C.R.S. § 18-12-201(1)(d).

28. The Colorado General Assembly found that:

It is necessary that the state occupy the field of regulation of the bearing of concealed handguns since the issuance of a concealed handgun permit is based on a person’s constitutional right of self-protection and there is a prevailing state interest in ensuring that no citizen is arbitrarily denied a concealed handgun

permit and in ensuring that the laws controlling the use of the permit are consistent throughout the state.

C.R.S. § 18-12-201(1)(e).

29. The Colorado General Assembly found that:

The permitting and carrying of concealed handguns is a matter of statewide concern; and [i]t is necessary to provide statewide uniform standards for issuing permits to carry concealed handguns for self-defense.

C.R.S. § 18-12-201(2).

30. Based in part on the findings cited in paragraphs 25–29 above, C.R.S. §§ 18-12-201 to -216 create a statewide standard for issuance and use of permits to carry concealed handguns and prohibit local regulations of concealed carry that conflict with the letter and purpose of the statute.

31. C.R.S. § 18-12-204(1)(b) provides that a concealed handgun permit “is effective in all areas of the state, except as otherwise provided in section 18-12-214.”

32. C.R.S. § 18-12-214 authorizes a concealed handgun permittee to carry a concealed handgun “in all areas of the state, except as specifically limited in this section.” Although § 18-12-214 limits a permittee’s authority to carry a concealed handgun on the property of “a public elementary, middle, junior high, or high school,” it does not limit a permittee’s authority to carry on the property of a public university.

33. C.R.S. § 18-12-214(1)(a) provides that “[a] local government does not have authority to adopt or enforce an ordinance or resolution that would conflict with any provision of [C.R.S. §§ 18-12-201 to -216].”

34. C.R.S. § 18-1-901 defines “government” as “the United States, any state, county, municipality, or other political unit, any branch, department, agency, or subdivision of any of the foregoing, and any corporation or other entity established by law to carry out any governmental function.”

35. C.R.S. § 18-12-201(3) provides that “[a]n action or rule that encumbers the permit process by placing burdens on the applicant beyond those sworn statements and specified documents detailed in [C.R.S. §§ 18-12-201 to -216] or that creates restrictions beyond those specified in [C.R.S. §§ 18-12-201 to -216] is in conflict with the intent of [C.R.S. §§ 18-12-201 to -216] and is prohibited.”

36. The right to bear arms is guaranteed by article II, § 13 of the Colorado Constitution: “The right of no person to keep and bear arms in defense of his home, person and property, or in aid of the civil power when thereto legally summoned, shall be called in question; but nothing herein contained shall be construed to justify the practice of carrying concealed weapons.”

37. Article II, § 13 of the Colorado Constitution prohibits regulations that completely deny the right to bear arms in self-defense for any class of people or any law-abiding individual.

38. Regents Policy 14-I completely denies the right to bear arms in self-defense for all campus visitors, including possession of firearms safely stored in vehicles that are parked on or driven through campus.

39. Regents Policy 14-I prohibits “the possession of the [sic] firearms, explosives, or other dangerous or illegal weapons on or within any University of Colorado campus, leased building, other area under the jurisdiction of the local campus police department or areas where such possession interferes with the learning and working environment.”

40. Regents Policy 14-I “is intended to clearly state expected standards of personal conduct for employees, students, and visitors” while on University of Colorado campuses.

41. Regents Policy 14-I provides that only “peace officers or . . . others who have written permission from the Chief of Police for those campuses which have such an officer or from the Chancellor after consultation with the Chief of Police” are permitted to possess firearms on campus. Defendants Shockley-Zalabak and Abraham have stated that this exception applies only to “law enforcement official[s].” Altman Letter, Exh. A; Mote Letter, Exh. B; Davis Letter, Exh. C.

42. Regents Policy 14-I provides penalties for any individual who violates its terms, including permanent banishment from any University of Colorado campus, leased building, or other area under the control of University police.

43. The minimum penalty for students who violate Regents Policy 14-I is expulsion.

44. The Auraria Campus Police Department’s 2007 Campus Security and Safety Report indicates that nearly a dozen forcible sexual assaults and almost 50 robberies and aggravated assaults have occurred on or near the Auraria campus, where UCD is located, since 2005.

45. Ms. Altman lawfully owns a handgun, which she is permitted to carry pursuant to C.R.S. § 18-12-206. Ms. Altman presently intends to possess a handgun when traveling to, from, through, or on the campuses of the University of Colorado for self-defense but is prevented from doing so by Defendants’ active enforcement of Regents Policy 14-I.

46. On November 3, 2008, Ms. Altman applied in writing to UCD Chancellor M. Roy Wilson and UCD Chief of Police Doug Abraham for permission to carry a concealed handgun on the UCD campus. This request was denied by Chief Abraham by letter dated November 26, 2008. Altman Letter, Exh. A.

47. Mr. Mote lawfully owns a handgun, which he is permitted to carry pursuant to C.R.S. § 18-12-206. Mr. Mote does visit and presently intends to visit the campuses of the University of Colorado to attend public events, meetings, and engage in other lawful activities. Mr. Mote presently intends to possess a handgun for self-defense when traveling to, from, through, or on the campuses of the University of Colorado but is prevented from doing so by Defendants' active enforcement of Regents Policy 14-I.

48. On September 9, 2008, Mr. Mote orally applied to UCCS Chancellor Pam Shockley-Zalabak and UCCS Chief of Police Jim Spice for permission to carry a concealed handgun on campus. This request was orally denied the same day.

49. On November 3, 2008, Mr. Mote applied in writing to Chancellor Shockley-Zalabak and Chief Spice for permission to carry a concealed handgun on campus. This request was denied by Chancellor Shockley-Zalabak by letter dated November 17, 2008. Mote Letter, Exh. B.

50. Mr. Davis lawfully owns a handgun, which he is permitted to carry pursuant to C.R.S. § 18-12-206. Mr. Davis presently intends to possess a handgun when traveling to, from, through, or on the campuses of the University of Colorado for self-defense but is prevented from doing so by Defendants' active enforcement of Regents Policy 14-I.

51. On November 11, 2008, Mr. Davis applied in writing to Chancellor Shockley-Zalabak and Chief Spice for permission to carry a concealed handgun on campus. This request was denied by Chancellor Shockley-Zalabak by letter dated November 17, 2008. Davis Letter, Exh. C.

FIRST CLAIM FOR RELIEF
(Otherwise Provided by Law)

52. Plaintiffs incorporate paragraphs 1–51 above as if the same were set forth fully herein.

53. The Regents are authorized to provide local governance for the University of Colorado unless a statute or constitutional provision “otherwise provides by law,” thereby limiting that authority. Colo. Const. art. VIII, § 5(2).

54. C.R.S. §§ 18-12-201 to -216 limit the Regents’ authority as “otherwise provided by law” because §§ 18-12-201 to -216 create comprehensive legislation addressing a matter of statewide concern.

55. C.R.S. §§ 18-12-201 to -216 create a uniform statewide standard for issuance and use of permits to carry concealed handguns and prohibit local regulations of concealed carry that conflict with the letter and purpose of the statute.

56. C.R.S. § 18-12-201(3) provides that “[a]n action or rule that encumbers the permit process by placing burdens on the applicant beyond those sworn statements and specified documents detailed in [C.R.S. §§ 18-12-201 to -216] or that creates restrictions beyond those specified in [C.R.S. §§ 18-12-201 to -216] is in conflict with the intent of [C.R.S. §§ 18-12-201 to -216] and is prohibited.”

57. C.R.S. § 18-12-204(1)(b) provides that a concealed handgun permit “is effective in all areas of the state, except as otherwise provided in section 18-12-214.”

58. C.R.S. § 18-12-214 authorizes a concealed handgun permittee to carry a concealed handgun “in all areas of the state, except as specifically limited in this section.” Although § 18-12-214 limits a permittee’s authority to carry a concealed handgun on the property of “a public elementary, middle, junior high, or high school,” it does not limit a permittee’s authority to carry on the property of a public university.

59. C.R.S. § 18-12-214(1)(a) provides that “[a] local government does not have authority to adopt or enforce an ordinance or resolution that would conflict with any provision of [C.R.S. §§ 18-12-201 to -216].”

60. C.R.S. § 18-1-901 defines “government” as “the United States, any state, county, municipality, or other political unit, any branch, department, agency, or subdivision of any of the foregoing, and any corporation or other entity established by law to carry out any governmental function.”

61. The Board of Regents is a public body corporate that functions as an agent of the state for the purpose of providing local governance for the University of Colorado. Colo. Const. art. IX, § 12, art. VIII, § 5(2).

62. Regents Policy 14-I is in direct and irreconcilable conflict with express and implied statutory prohibitions against enforcement of local rules regulating concealed carry, both on its face and as applied against Plaintiffs, in violation of C.R.S. §§ 18-12-201 to -216, and article VIII, § 5(2) of the Colorado Constitution.

63. Regents Policy 14-I deprives Plaintiffs of rights and privileges guaranteed by C.R.S. §§ 18-12-201 to -216.

64. Plaintiffs are therefore entitled to an order holding unlawful and setting aside Regents Policy 14-I and permanent injunctive relief against continued enforcement and maintenance of Regents Policy 14-I.

SECOND CLAIM FOR RELIEF
(Right to Keep and Bear Arms)

65. Plaintiffs incorporate paragraphs 1–51 above as if the same were set forth fully herein.

66. The right to keep and bear arms is guaranteed by article II, § 13 of the Colorado Constitution.

67. Article II, § 13 of the Colorado Constitution prohibits regulations that deprive any class of people or any law-abiding individual the right to keep and bear arms for self-defense.

68. Regents Policy 14-I is an outright prohibition on the possession of firearms on the campuses of the University of Colorado by all visitors to campus and by all law-abiding individuals otherwise permitted to possess firearms for self-defense, including Plaintiffs.

69. Regents Policy 14-I is an unreasonable regulation of the right to keep and bear arms in violation of article II, § 13 of the Colorado Constitution.

70. Plaintiffs are therefore entitled to an order holding unconstitutional and setting aside Regents Policy 14-I and permanent injunctive relief against continued enforcement and maintenance of Regents Policy 14-I.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that this Court:

1. Declare that Regents Policy 14-I violates Colorado Revised Statutes §§ 18-12-201 to -216;
2. Declare that Regents Policy 14-I violates article II, § 13 of the Colorado Constitution;
3. Issue an order holding unlawful and setting aside Regents Policy 14-I;
4. Permanently enjoin Defendants from enforcing Regents Policy 14-I;
5. Award costs and attorney fees in accordance with law; and
6. Award any other further relief the Court deems just and appropriate.

Respectfully submitted this 11th day of December, 2008.

/s/ James M. Manley

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