



FAULKNER UNIVERSITY

FIREARMS IN THE WORKPLACE

Section: **Employee Relations**
Policy Number: **357**
Past Revisions: **N/A**

Effective: **August 1, 2013**
Revision: **N/A**
Reviewed **N/A**

Scope: Faculty; Staff

Purpose: The purpose of this policy is to set guidelines that will allow Faulkner University to be in compliance with the provisions of the Code of Alabama, Act 2013-283.

GENERAL PROVISIONS

Faulkner University complies with the provisions of Act 2013-283, as it has been codified in various sections of the Code of Alabama, 1975, as amended, effective August 1, 2013.

Employees may not under any circumstances carry any firearm either openly or concealed about their persons while on any campus or property owned by or under the control of Faulkner University. Anyone who so carries a firearm is subject to disciplinary action including termination and criminal prosecution.

Employees may have a firearm in their locked vehicle only under the terms and conditions permitted by 13A-11-90 as referenced below. Any employee who has a firearm in his or her locked vehicle but fails to satisfy the terms and conditions of 13A-11-90 is subject to disciplinary action including termination and criminal prosecution. Although Part (b) (1) b iv references certain crimes as they are defined in the Code of Alabama, Faulkner University takes the position that anyone convicted of such a crime under another state's law or under federal law is also included by the language in Part (b) (1) b iv.

A person's primary relationship with the University will determine whether this policy or the student policy is applicable to him or her. Therefore all student employees (including but not limited to work study and graduate assistants) will be governed under the guidelines established for students. All other employees, regular and temporary, will be governed by this policy (whether attending classes at Faulkner or not).

LAW PROVISIONS

§ 13A-11-90. Restrictions on firearms by employers.

(a) Except as provided in subdivision (b), a public or private employer may restrict or prohibit its employees, including those with a permit issued or recognized under Section 13A-11-75, from carrying firearms while on the employer's property or while engaged in the duties of the person's employment.

(b) A public or private employer may not restrict or prohibit the transportation or storage of a lawfully possessed firearm or ammunition in an employee's privately owned motor vehicle while parked or operated in a public or private parking area if the employee satisfies all of the following:

(1) The employee either:

a. Has a valid concealed weapon permit; or

b. If the weapon is any firearm legal for use for hunting in Alabama other than a pistol [*see Appendix A for definition of pistol*]:

i. The employee possesses a valid Alabama hunting license;

ii. The weapon is unloaded at all times on the property;

- iii. It is during a season in which hunting is permitted by Alabama law or regulation;
 - iv. The employee has never been convicted of any crime of violence as that term is defined in Section 13A-11-70, nor of any crime set forth in Chapter 6 of Title 13A, nor is subject to a Domestic Violence Order, as that term is defined in Section 13A-6-141 [*see Appendices A, B and C for a fuller explanation*];
 - v. The employee does not meet any of the factors set forth in Section 13A-11-75(a)(1)a.1-8 [*see Appendix D for a fuller explanation*]; and
 - vi. The employee has no documented prior workplace incidents involving the threat of physical injury or which resulted in physical injury.
- (2) The motor vehicle is operated or parked in a location where it is otherwise permitted to be.
- (3) The firearm is either of the following:
- a. In a motor vehicle attended by the employee, kept from ordinary observation within the person's motor vehicle.
 - b. In a motor vehicle unattended by the employee, kept from ordinary observation and locked within a compartment, container, or in the interior of the person's privately owned motor vehicle or in a compartment or container securely affixed to the motor vehicle.
- (c) If an employer believes that an employee presents a risk of harm to himself/herself or to others, the employer may inquire as to whether the employee possesses a firearm in his or her private motor vehicle. If the employee does possess a firearm in his or her private motor vehicle on the property of the employer, the employer may make any inquiry necessary to establish that the employee is in compliance with subsection (b).
- (1) If the employee is not in compliance with subsection (b), the employer may take adverse employment action against the employee, in the discretion of the employer.
 - (2) If the employee has been in compliance with subsection (b) at all times, the employer may not take adverse employment action against the employee based solely on the presence of the firearm.
- (d) If an employer discovers by other means that an employee is transporting or storing a firearm in his or her private motor vehicle, the employer may not take any adverse employment action against the employee based solely on the possession of that firearm if the employee has complied with the requirements in subsection (b).
- (e) Nothing in this section shall prohibit an employer from reporting to law enforcement a complaint based upon information and belief that there is credible evidence of any of the following:
- (1) That the employee's motor vehicle contains:
 - a. A firearm prohibited by state or federal law.
 - b. Stolen property or a prohibited or illegal item other than a firearm.
 - (2) A threat made by an employee to cause bodily harm to themselves or others.
- (f) If law enforcement officers, pursuant to a valid search warrant or valid warrantless search based upon probable cause, exigent circumstances, or other lawful exception to the search warrant requirement, discover a firearm prohibited by state or federal law, stolen property, or a prohibited or illegal item other than a firearm, the employer may take adverse employment action against the employee.
- (g) However, if the employee has fully complied with the requirements of subsection (b) and does not possess a firearm prohibited by state or federal law, that employee is entitled to recovery as specified in this subsection for any adverse employment action against the employee. If demand for the recovery has

not been satisfied within 45 calendar days, the employee may file a civil action in the appropriate court of this state against the public or private employer. A plaintiff is entitled to seek an award of all of the following:

- (1) Compensation, if applicable, for lost wages or benefits.
 - (2) Compensation, if applicable, for other lost remuneration caused by the termination, demotion, or other adverse action.
- (h) The license requirements set forth in sections (b)(1)a. and (b)(1)b.i. are for the purposes of this section only in order to determine whether an employee may transport or store a lawfully possessed firearm or ammunition in an employee's privately owned motor vehicle while parked or operated in a public or private parking area owned by the employer and shall not be construed to otherwise expand the requirements for the lawful possession of a firearm. These requirements shall not be interpreted to mean that the laws of the State of Alabama create any new connection between the possession of a hunting license and the right of a citizen to keep and bear arms.
- (i) Prohibitions regarding the carrying of a firearm under this section shall not apply to law enforcement officers engaged in the lawful execution of their official duties.
- (j) Nothing in this section shall be construed to authorize the transportation, carrying, storing, or possession of a firearm or ammunition where prohibited by federal law.

[If there is any discrepancy between this policy and the current version of 13A-11-90, the current version will govern. This policy will also be governed by any judicial interpretation of 13A-11-90.]

Appendix A: 13A-11-70

§ 13A-11-70. Definitions.

For the purposes of this division, the following terms shall have the respective meanings ascribed by this section:

- (1) PISTOL. Any firearm with a barrel less than 12 inches in length.
- (2) CRIME OF VIOLENCE. Any of the following crimes or an attempt to commit any of them, namely, murder, manslaughter, (except manslaughter arising out of the operation of a vehicle), rape, mayhem, assault with intent to rob, assault with intent to ravish, assault with intent to murder, robbery, burglary, and kidnapping. "Crime of violence" shall also mean any Class A felony or any Class B felony that has as an element serious physical injury, the distribution or manufacture of a controlled substance, or is of a sexual nature involving a child under the age of 12.
- (3) PERSON. Such term includes any firm, partnership, association or corporation.

Appendix B: Crimes set forth in Chapter 6 of Title 13A as of July 31, 2013

- § 13A-6-2. Murder
- § 13A-6-3. Manslaughter
- § 13A-6-4. Criminally negligent homicide.
- § 13A-6-20. Assault in the first degree.
- § 13A-6-21. Assault in the second degree.
- § 13A-6-22. Assault in the third degree.
- § 13A-6-23. Menacing.
- § 13A-6-24. Reckless endangerment.
- § 13A-6-25. Criminal coercion.
- § 13A-6-26. Compelling streetgang membership.
- § 13A-6-27. Use of pepper spray, etc.
- § 13A-6-28. Cross or American flag burning.
- § 13A-6-29. Administration of medication by owner, operator, or employee of licensed or statutorily exempt child care facility.
- § 13A-6-41. Unlawful imprisonment in the first degree.
- § 13A-6-42. Unlawful imprisonment in the second degree.
- § 13A-6-43. Kidnapping in the first degree.
- § 13A-6-44. Kidnapping in the second degree.
- § 13A-6-45. Interference with custody.
- § 13A-6-61. Rape in the first degree.
- § 13A-6-62. Rape in the second degree.
- § 13A-6-63. Sodomy in the first degree.
- § 13A-6-64. Sodomy in the second degree.
- § 13A-6-65. Sexual misconduct.
- § 13A-6-65.1. Sexual torture.
- § 13A-6-66. Sexual abuse in the first degree.
- § 13A-6-67. Sexual abuse in the second degree.
- § 13A-6-68. Indecent exposure.
- § 13A-6-69. Enticing child to enter vehicle, house, etc., for immoral purposes.
- § 13A-6-69.1. Sexual abuse of a child less than 12 years old.
- § 13A-6-81. School employee engaging in a sex act or deviant sexual intercourse with a student under the age of 19 years.
- § 13A-6-82. School employee having sexual contact with a student under the age of 19 years.
- § 13A-6-90. Stalking in the first degree.
- § 13A-6-90.1. Stalking in the second degree.
- § 13A-6-91. Aggravated stalking in the first degree.
- § 13A-6-91.1. Aggravated stalking in the second degree.
- § 13A-6-111. Transmitting obscene material to a child by computer.
- § 13A-6-121. Facilitating solicitation of unlawful sexual conduct with a child.
- § 13A-6-122. Electronic solicitation of a child.
- § 13A-6-123. Facilitating the on-line solicitation of a child.
- § 13A-6-124. Traveling to meet a child for an unlawful sex act.
- § 13A-6-125. Facilitating the travel of a child for an unlawful sex act.
- § 13A-6-130. Domestic violence -- First degree.
- § 13A-6-131. Domestic violence -- Second degree.
- § 13A-6-132. Domestic violence -- Third degree.
- § 13A-6-137. Interference with a domestic violence emergency call.
- § 13A-6-138. Domestic violence by strangulation or suffocation.
- § 13A-6-152. Human trafficking in the first degree.
- § 13A-6-153. Human trafficking in the second degree.

Appendix C: Definition of Domestic Violence Order**§ 13A-6-141. Definitions.**

As used in this article, the following terms shall have the following meanings, respectively, unless the context clearly indicates otherwise:

(1) ORDER. A domestic violence order is any protection order issued pursuant to the Protection from Abuse Act, Sections 30-5-1 to 30-5-11, inclusive. The term includes the following: a. A restraining order, injunctive order, or order of release from custody which has been issued in a circuit, district, municipal, or juvenile court in a domestic relations or family violence case; b. an order issued by municipal, district, or circuit court which places conditions on the pre-trial release on defendants in criminal cases, including provisions of bail pursuant to Section 15-13-190; c. an order issued by another state or territory which may be enforced under Sections 30-5B-1 through 30-5B-10. Restraining or protection orders not issued pursuant to the Protection from Abuse Act, Sections 30-5-1 to 30-5-11, inclusive, must specify that a history of violence or abuse exists for the provisions of this chapter to apply.

(2) VIOLATION. The knowing commission of any act prohibited by a domestic violence order or any willful failure to abide by its terms.

Appendix D: Factors set forth in Section 13A-11-75(a)(1)a.1-8**§ 13A-11-75. Permit to carry pistol in vehicle or concealed on person -- Issuance; fee; revocation; release of information.**

(a)(1)a. The sheriff of a county, upon the application of any person residing in that county, within 30 days from receipt of a complete application and accompanying fee, shall issue or renew a permit for such person to carry a pistol in a vehicle or concealed on or about his or her person within this state for one to five year increments, as requested by the person seeking the permit, from date of issue, unless the sheriff determines that the person is prohibited from the possession of a pistol or firearm pursuant to state or federal law, or has a reasonable suspicion that the person may use a weapon unlawfully or in such other manner that would endanger the person's self or others. In making such determination, the sheriff may consider whether the applicant:

1. Was found guilty but mentally ill in a criminal case.
2. Was found not guilty in a criminal case by reason of insanity or mental disease or defect.
3. Was declared incompetent to stand trial in a criminal case.
4. Asserted a defense in a criminal case of not guilty by reason of insanity or mental disease or defect.
5. Was found not guilty only by reason of lack of mental responsibility under the Uniform Code of Military Justice.
6. Required involuntary inpatient treatment in a psychiatric hospital or similar treatment facility.
7. Required involuntary outpatient treatment in a psychiatric hospital or similar treatment facility based on a finding that the person is an imminent danger to himself or herself or to others.
8. Required involuntary commitment to a psychiatric hospital or similar treatment facility for any reason, including drug use.