



ALAN WILSON  
ATTORNEY GENERAL

September 25, 2018

The Hon. Paul G. Campbell, Jr.  
South Carolina Senate  
PO Box 142  
Columbia, SC 29202

Dear Senator Campbell:

We received your request seeking an opinion on the legality of a Charleston Southern University faculty or staff member who also is a CWP holder carrying, with express permission, a concealed weapon on the campus of CSU. This opinion sets out our Office's understanding of your question and our response.

**Issue (as quoted from your letter, slightly edited):**

I am requesting an opinion on behalf of Charleston Southern University's Board of Directors, who has directed their Executive Vice President Michael Bryant to ask me to submit a request to the Attorney General's office. CSU is considering implementing a policy which would allow approved CSU faculty and staff (excluding students) with a Concealed Weapons Permit to carry a concealed weapon on campus for the purpose of responding to an active shooter. As a private institution with limited financial resources, they are looking for ways to provide stronger security within a limited budget.

Their university lawyer has informed them that according to SC Code § 16-23-420, CSU would be allowed to implement the policy provided that the Board of Trustees grant their permission for this policy.

**Response:**

It is the opinion of this Office that a person who has the express permission of a university may lawfully carry on the university premises consistent with the terms of that permission. S.C. Code Ann. § 16-23-420 (2015).

As referenced in your letter, Section 16-23-420 of the South Carolina Code generally addresses the legality of carrying a firearm on the campus of a college or university in this State and provides in relevant part:

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It is unlawful for a person to possess a firearm of any kind on any premises or property owned, operated, or controlled by a private or public school, college, university, technical college, other post-secondary institution, or in any publicly owned building, without the express permission of the authorities in charge of the premises or property.

S.C. Code Ann. § 16-23-420(A) (2015). Although our Office has issued several relevant prior opinions on the lawful carrying of handguns, this author's research has not identified any reported South Carolina case or prior opinion of this Office which addresses your question directly. It appears that a court faced with this question would rely upon the rules of statutory construction to give effect to the intention of the Legislature in codifying the various statutes set out above. As this Office has previously opined,

The cardinal rule of statutory construction is to ascertain and effectuate the legislative intent whenever possible. *State v. Morgan*, 352 S.C. 359, 574 S., E.2d 203 (Ct. App. 2002) (citing *State v. Baucom*, 340 S.C. 339, 531 S.E.2d 922 (2000)). All rules of statutory interpretation are subservient to the one that legislative intent must prevail if it can be reasonably discovered in the language used, and that language must be construed in light of the intended purpose of the statute. *State v. Hudson*, 336 S.C. 237, 519 S.E.2d 577 (Ct. App. 1999).

*Op. S.C. Att'y Gen.*, 2005 WL 1983358 (July 14, 2005). Additionally, "[t]he rules of statutory construction developed by our Supreme Court establish that a criminal statute must be strictly construed against the state and any ambiguity or doubt or uncertainty must be resolved in favor of the defendant." *Op. S.C. Att'y Gen.*, 1983 WL 182044 (November 2, 1983) (citing *State v. Germany*, 216 S.C. 182, 57 S.E.2d 165 (1950); *State v. Lewis*, 141 S.C. 483, 86 S.E. 1057 (1927).).

Turning to the question presented in your letter, we observe that several prior opinions of this Office have construed Section 16-23-420 as generally prohibiting possession of a firearm on a college or university campus with the exception that a college or university may expressly permit such possession. *See, e.g., Op. S.C. Att'y Gen.*, 1996 WL 599441 (September 20, 1996). For example, a 1996 opinion of this Office addressed to the General Counsel of the Medical University of South Carolina considered then-recent amendments to South Carolina's CWP statute and concluded:

Based upon the foregoing, it would appear to me that the law specifically prohibits with certain designated exceptions the carrying of a firearm of any kind "onto the premises or property, owned, operated or controlled by a private or public school, college, university, technical college, other post-secondary

institution or any kind without the express permission of the authorities in charge of the premises or property." Thus, only if those in charge of the property choose to so allow such weapons, would they be permitted.

*Id.* (emphasis added); *cf.* S.C. Code Ann. § 16-23-20 (2015) (providing exception from criminal liability for possession of a handgun for "a person who has the permission of the . . . person in legal control of the home or real property"). Similarly, a 2007 opinion addressed to the President of Piedmont Technical College considered whether the school could offer a gunsmithing program and noted that "Section 16-23-420 would appear to be specific legislation particularly allowing the possession of firearms in a school setting with the express permission of the relevant authorities." *Op. S.C. Att'y Gen.*, 2007 WL 655620 (February 16, 2007) (emphasis added). And most recently, an opinion of this Office issued earlier this year on the subject of shooting ranges observed that "we are not aware of any legal impediment to a school constructing a shooting range for the purpose of its students safely engaging in shooting sports" and that "[a]t least a few secondary schools in South Carolina offer shooting sports opportunities for their students." *Op. S.C. Att'y Gen.*, 2018 WL 3326904 (June 27, 2018).

For these reasons we believe that a court would conclude that the plain language of Section 16-23-420 is dispositive of the question presented in your letters, in that § 16-23-420 does not prohibit a person from carrying a concealed weapon on university property with express permission and so long as they act consistent with the terms of that permission. S.C. Code Ann. § 16-23-420 (2015); *see also* S.C. Code Ann. § 16-23-20 (2015) (providing exception from criminal liability for possession of a handgun for "a person who has the permission of the . . . person in legal control of the home or real property"). This opinion should not be construed to read that where a college or university chooses to extend permission to certain persons to carry a handgun on its premises, that permission must be "all-or-nothing." While this author's research has not identified any reported decisions on this question, we see no legal obstacle to a university choosing to grant permission only to certain persons to carry a handgun only at certain times or only upon a certain portion of the premises. *See* S.C. Code Ann. § 23-31-420 (2007). We also note that our Office has issued numerous prior opinions regarding firearms generally and Concealed Weapons Permits specifically, and this opinion should be read in the context of those other discussions of applicable law.

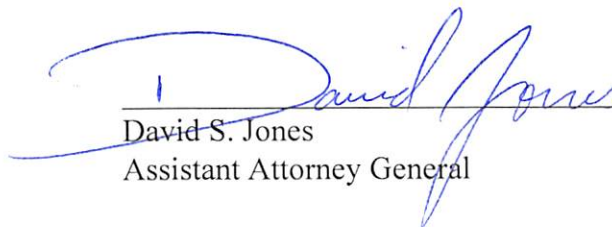
#### **Conclusion:**

This Office has reiterated in numerous opinions that it strongly supports the Second Amendment and the right of citizens to keep and bear arms, and we affirm that position again here. *See, e.g., Op. S.C. Att'y Gen.*, 2015 WL 4596713 (July 20, 2015). We note that our opinion here is focused solely on the law, and that wisdom and prudence of any particular policy such as the one discussed here is a decision for the Board of CSU after careful consideration of specific

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proposals and consultation with legal counsel for the university. We simply opine today that we are not aware of any legal prohibition under South Carolina's criminal law which would preclude implementing such a policy. *See* S.C. Code Ann. § 16-23-420 (2015). Accordingly, it is the opinion of this Office that a court would conclude that where a person has the express permission of the university, and where that person is not otherwise prohibited by law from possessing a concealed handgun, that person may lawfully carry on the university premises consistent with such permission. *See id.*

Sincerely,



David S. Jones  
Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook  
Solicitor General