

Utah School Safety and Gun Laws and Regulations

Utah Safety Laws and Regulations

Utah law requires that each school board/charter school adopt and implement a comprehensive emergency response plan to prevent and combat violence in its public schools, on school grounds, or on its school vehicles, and in connection with school-related activities or events. (Utah Code Ann. § 53A-3-402(18). Utah Administrative Code, 277-400 details the requirements for the School Emergency Response Plans. These requirements are summarized below.

The Plan

A copy of the plan for each school within a school district must be filed in the LEA superintendent's or charter school director's office (R277-400-4) and must include:

- prevention, intervention, and response components (UCA 53A-3-402(18)(c)(i));
- in-service training for all district and school building staff on what their roles are in the emergency plan (UCA 53A-3-402(18)(c)(iii));
- a provision for the coordination with local law enforcement and other public safety representatives in preventing, intervening, and responding to any such violence. (UCA 53A-3-402(18)(c)(iv)). The plan must delineate communication channels and lines of authority within the LEA, city, county, and state (R277-400-9);
- measures which assure that school children receive emergency preparedness training, appropriate to their ages in rescue techniques, first aid, safety measures appropriate for specific emergencies, and other emergency skills (R277-400-6A); and
- identification of resources and materials available for training (R277-400-6E).

Notice

AT the beginning of each school year, parents and staff shall receive written notice of relevant sections of school district and school plans which are applicable to that school. (R277-400-4)

Drills

- LEAs must certify to the State Board of Education each year that plans have been practiced at the school level and presented to and reviewed by teachers, administrators, students, and parents and local law enforcement and public safety representatives. (UCA 53A-3-402(18)(e)).
- Fire evacuation drills must be practiced monthly in elementary schools, and every two months in secondary schools. (R277-400-6B)
- Emergency evacuation drills may be substituted every other time for a security or safety drill like a shelter in place, earthquake drill, or lock down for violence drill. (R277-400-6B)
- Schools shall require at least one non-fire drill during the school year, and at least one annual drill for violence emergencies. (R277-400-6C, 7B)
- School districts and schools must coordinate with local law enforcement and other public safety representatives to involve them in emergency drills. (R277-400-7E)

Training, Prevention, Intervention

- LEAs are required to provide annual training for school district and school building staff on employees' roles, responsibilities and priorities in the emergency response plan. (R277-400-7A)
- The LEA must appoint persons to review the plan every three years (R277-400-3E), and schools must review existing security measures and procedures within their schools and make adjustments as needs demonstrate and as funds are available. (R277-400-7C)
- LEAs must provide schools with resource lessons and materials on comprehensive violence prevention and intervention strategies, to be incorporated into the regular curriculum. The materials could cover anger management, conflict resolution, and respect for diversity and other cultures. (R277-400-8A)
- Schools MAY provide age-appropriate instruction on firearm safety, including appropriate steps to take if a student sees a firearm in school. This rule does not intend instruction to include firearm use. (R277-400-8B)
- LEAs must develop student assistance programs, such as care teams, school intervention programs, and interagency case management teams. This requirement is subject to resources available. (R277-400-C)

Moreover, the State Board of Education and the staff at the Utah State Office of Education has developed a comprehensive emergency response plan model and guide that LEAs may use. That guide can be found at: <http://schools.utah.gov/finance/Facilities/School-Facility-Safety/EmergencyPreparednessPlanningforSchoolsOverview.aspx>

On School Premises

Utah Code Ann. § 76-10-505.5 prohibits the possession of a *dangerous weapon*,¹ *firearm*,² or sawed-off shotgun on or about *school premises*. However, this section doesn't apply IF:

- the person has a *concealed firearm*³ permit, either temporary or permanent (only a firearm, not a dangerous weapon or a sawed-off shotgun is allowed);

¹ *Dangerous weapon*: an item that is intended to cause death or serious bodily injury. Knives or other objects not commonly known as a dangerous weapon may be a dangerous weapon depending on a number of factors spelled out in the law, including the manner in which the object is used, other legal uses of the object, and the character of the wound if any. Note that explosives, chemicals and other incendiary devices are not considered dangerous weapons.

² *Firearm*: a pistol, revolver, shotgun, shot barrel rifle, or any device that acts like a gun in that a projectile is expelled by action of an explosive.

³ *Concealed dangerous weapon*: a dangerous weapon that is covered, hidden, or secreted in a manner that the public would not be aware of its presence AND is readily accessible for immediate use. "Readily accessible for immediate use" is defined as "a firearm or other dangerous weapon is carried on the person or within such close proximity and in such a manner that it can be retrieved and used as readily as if carried on the person."

- the person is at his place of residence or on his property;
- the person is a United States marshal; a federal official required to carry a firearm; a peace officer; a judge; a firearms common carrier; or a nonresident traveling in or through the state, but this person may only carry an unloaded firearm that is *securely encased*⁴;
- possession is approved by the responsible school administrator;
- the item is present to be used in connection with a lawful, approved activity and is in the possession or under the control of the person responsible for its possession or use; OR the item is in the person's vehicle AND the vehicle is under the person's control.

Frequently Asked Questions and Answers

Q. As an educator, can I bring a gun to school?

A. If the educator or staff has a concealed firearm permit, he may bring a firearm to school but it must be concealed in every sense of the word. Concealing a gun in your belt but announcing to students and staff that you are carrying a gun is NOT concealed. Concealing the gun in a jacket but flashing the jacket open, allowing students/staff to see the gun is NOT concealed. Moreover, the firearm MUST be readily accessible for IMMEDIATE use. This means carrying a firearm in your purse, then leaving your purse in the classroom while you use the restroom is NOT okay. Even taking your purse to the bathroom but not in the stall with you is also NOT okay.

If you do not have a concealed firearm permit, you may only bring a gun to school if one of the other exceptions apply: if your home is on school property, if you are with law enforcement, if your administrator approves of the possession and if you are using it in connection with a lawful, approved activity, or if it is in your car and you are in control of your car.

Q. What if my school tells me I can't bring a gun or any weapon?

A. State law allows possession of a firearm on school premises if you have a concealed firearms permit, or if another exception as stated above applies. However, if your school or district has a policy prohibiting firearms on school premises, there are proper channels to challenge that policy if you feel it violates your statutory and constitutional rights. Bringing a firearm despite clear policy prohibiting such action without going through those channels, could be deemed insubordination.

Q. If I do bring a gun to school under a concealed firearm permit, do I have to notify anyone at the school, for example, my administrator?

⁴ *Securely encased*: not readily accessible for immediate use, such as held in a gun rack, or in a closed case or container (locked or unlocked) or in a trunk or other storage area of a car, but not a glove box or console.

A. No, and in fact, to be truly concealed (“covered, hidden, or secreted in a manner that the public would not be aware of its presence”) you should not make it public knowledge that you are carrying a firearm. However, there is nothing in the law that prohibits disclosure to a supervisor if it is determined to be in the best interest of the school that such information is disclosed.

Q. Can my administrator require me to disclose that I am a permit holder and I am carrying a firearm?

A. Probably not. The law provides that records of permit holders are protected records and not subject to disclosure under the Governmental Records Access and Management Act (GRAMA) (§53-5-708). The law also specifically reserves all firearms regulation to the state and prohibits state entities, including public schools and school districts, from enforcing any regulation or rule pertaining to firearms. While there is nothing prohibiting voluntary disclosure, mandatory disclosure by school administrators would not hold up in court.

Q. What kinds of guns/weapons can teachers bring to school under a concealed firearm permit?

A. Firearm is defined in Utah Code Ann. §76-10-601(9) as a pistol, revolver, shotgun, shot barrel rifle, or any device that acts like a gun in that a projectile is expelled by action of an explosive.

Q. Can I bring a taser gun or mace to school with me if I don’t have a concealed firearms permit?

A. Both tasers and mace would likely fall into the category of dangerous weapon, and would not be considered a firearm, so a firearm permit wouldn’t do you any good. However, if your administrator approves of possession of the dangerous weapon, the law does not prohibit an educator or staff from carrying such an item. PLEASE BE WISE about carrying ANY weapon even with approval from your administrator.

Q. Can I bring a gun and leave it in my car?

A. If your car is parked on school property and not on the streets, you may only have a gun in your car if you are in control of the car. So, **leaving** the gun in the car while you are in school—whether the gun is loaded or unloaded, securely encased or out in the open—is not allowed since you are not in control of the car while you are in school. If you are parked on a side street that is NOT considered school premises, you may bring and leave a gun in your car. You may NOT take the loaded gun out of your car and onto a public street if you do not have a concealed firearms permit.

Q. What if a student brings a gun to school to protect himself?

A. Any student under 21 is too young to get a concealed firearm permit and unless another exception to the prohibition of guns on school premises applies, he may not bring a gun, a sawed-off shotgun, or any dangerous weapon to school. [In addition to the criminal statute, 53A-11-904 requires discipline of a student if the student brings a gun to school]

Q. If being used in a performance or demonstration of some kind, can a firearm be brought to school?

- A. Yes, Utah law allows possession of a dangerous weapon, firearm, or sawed-off shotgun on school grounds if possession is approved by the responsible school administrator and if the item is being used for a lawful approved activity and is under the control of the person responsible for its use. However, there is no need for any weapon to be loaded if it is only being used as a prop; if being used in a demonstration that requires a loaded weapon, it should be with great caution and approval should be granted by the responsible school administrator.
- Q. Are there laws prohibiting guns or weapons within so many feet of a school?
- A. Until 2011, Utah law prohibited guns and weapons anywhere within 1000 feet of a school's perimeter. This law was repealed and replaced with the above referenced law regarding guns and weapons on school premises.
- Q. What if a student brings a gun to a school activity that is off school property, but is school-related and students are present?
- A. Minors cannot possess guns, period. Anyone under 21 cannot get a concealed weapons permit. [53A-11-904(2) also requires discipline of the student]
- Q. Can an adult/advisor bring a gun to a school activity that is off school property, but is school-related and students are present?
- A. The law does not address school-related activities that are not on school premises, and so the applicable laws are those that apply to all citizens. Concealed firearms permit holders may carry a concealed weapon, so long as it is actually concealed and accessible for immediate use, e.g. on the person's body. If a person does not have a concealed firearms permit, he may carry an unloaded firearm out in the open, but not a loaded firearm, and may not conceal a loaded or unloaded firearm.
- Q. What are Utah schools doing to ensure something like the tragedy in Connecticut doesn't happen again?
- A. Utah Code Ann. Section 53A-3-402(18) and Utah Administrative Rules 277-400 provide that each LEA will adopt and implement a comprehensive emergency response plan to prevent and combat violence in its public schools, on school grounds, on its school vehicles, and in connection with school-related activities or events. A school district may direct schools within the district to develop and implement individual plans.
- Q. What limitations can a district or charter school place on a concealed permit holder? Can the district or charter require employees to have mandatory training, require that employees check in with the administration, set requirements for where/how employees carry?
- A. A district or charter may not impose additional regulations, including training requirements above and beyond what is in the law. The law is clear that all authority to regulate firearms is reserved to the state and that a state entity may not enact, establish, or enforce any ordinance, regulation, rule, or policy pertaining to firearms that inhibits or restricts the possession or use

on public or private property. Note that permit holders must have training before qualifying for a permit, pursuant to 53-5-704. A school may insist that an employee explicitly comply with the concealed carry law, e.g. see the definition of “concealed dangerous weapon”—the person must have the weapon “. . . on the person or within such close proximity and in such a manner that it can be retrieved and used as readily as if carried on the person.”

Q. What if, as an administrator, I wanted my secretaries and janitors to get a concealed firearms permit? Could I pay for the classes they have to take without becoming liable if something happens?

A. You cannot require anyone to get a concealed firearms permit as a condition of employment. The liability question should be explored with the school’s insurer, usually State Risk Management.