

## Department of History Statement about the 2015 Texas Campus Carry Law

We, the full-time faculty and staff of the Department of History at Texas State University, by 31 votes to 1, strongly oppose the 2015 Texas Campus Carry Law that allows concealed handguns in university classrooms and offices, thereby violating the First Amendment rights of faculty and students to free speech.

Second Amendment rights do not take precedence over First Amendment rights. A law that has a chilling effect on free speech is unconstitutional (First Amendment: "Congress shall make no law . . . abridging the freedom of speech"). By allowing concealed handguns in public university classrooms, SB11 will create or exacerbate a climate of emotional fear and distrust, and thus will have a chilling effect on the free speech of instructors and students. Therefore, it is unconstitutional.

The sanctity of freedom of speech in the classroom has been upheld by the Supreme Court of the United States (*See, e.g., Kracunas v. Iona College*, 119 F.3d 80, 88 & n. 5 (2d Cir. 1997)), and the American Association of University Professors (AAUP) has affirmed that concealed handguns in public Texas university classrooms, laboratories, offices, and other learning environments will chill and harm both instructor and student speech in various academic departments (*see* "Academic Freedom and the First Amendment," 2007). Should Texas State University allow concealed handguns in its classrooms, the institution will thus violate the free speech rights of instructors and students guaranteed by the First Amendment of the U.S. Constitution.

Further, the introduction of concealed handguns into public university classrooms in Texas, according to the AAUP's logic in its 2007 white paper, expands the "legislative oversight over what professors may teach . . ." in their courses. In his opinion in *Wieman v. Updegraff*, 344 U.S. 183 (1952), U.S. Supreme Court Justice Felix Frankfurter argued resolutely:

Such unwarranted inhibition upon the free spirit of teachers . . . has an unmistakable tendency to chill that free play of the spirit which all teachers ought especially to cultivate and practice; it makes for caution and timidity in their associations by potential teachers. . . . Teachers must . . . be exemplars of open-mindedness and free inquiry (AAUP "Academic Freedom and the First Amendment," 2007).

From our perspective, the Texas law is essentially censorship of free speech by guns.

Numerous other academic institutions and associations have already voiced similar concerns, including the faculty and students at Rice University, the University of Texas at Austin, and numerous other Texas institutions of higher education, public and private, as well as twenty-nine major American scholarly societies, including the American Historical Association, the leading professional organization in our discipline.

We are also seriously concerned about the harm the Texas Campus Carry law will cause to the institution's national and international reputation, as well as the barriers it will create to the recruitment and retention of top-tier faculty and students. We believe that such an atmosphere will undermine the university's ability to fulfill its mission.

Therefore, we, the History full-time faculty and staff at Texas State University, call for the repeal of SB11 and urge the Task Force and the Faculty Senate to recommend to President Trauth in the strongest terms that all guns be banned from classrooms and offices at Texas State University.

San Marcos, 13 December, 2015