



Written by [Raven Clabough](#) on August 23, 2016

Injunction Against Texas Campus Carry Law Denied

Professors at the University of Texas attempted to block a new campus carry law from taking effect on their campus, but their request for an injunction was [denied](#) by the U.S. District Court for the Western District of Texas. According to the court, the professors were not entitled to a preliminary injunction against the law that went into effect on August 1. However, the professors' lawsuit against the campus carry law is still being pursued.



Under the Texas law, students who are at least 21 years old and have a concealed handgun license may carry their guns at all public colleges and universities, with the exception of certain facilities, including chemical labs and sports arenas. By next year, the law will also take effect at private schools and two-year community colleges. Texas is one of eight states to allow campus carry.

The plaintiffs in the lawsuit — Dr. Jennifer Lynn Glass, Dr. Lisa Moore, and Dr. Mia Carter — sought the right to ban firearms from their classrooms, which would have put the University of Texas out of compliance with the new law. Listed as defendants in the suit were University of Texas Austin campus President Gregory Fenves, who publicly opposed the campus carry law, members of the University of Texas Board of Regents, and Texas Attorney General Ken Paxton.

While President Fenves sympathizes with the professors' concerns, he asserts that the law must be followed. He also notes that he is adhering to recommendations [outlined](#) by a campus working group about how best to comply with the law. The recommendations included allowing faculty and staff members to designate their personal offices as gun-free zones if they so choose. The plaintiffs stated that the office ban did little to assuage their concerns. The professors' lawsuit claims that the campus carry law is in violation of their rights protected by the First and Fourth Amendment, as well as their due process rights.

According to their suit, professors who teach controversial subjects will now have to fear for their lives with guns being permissible in classrooms, thereby negatively affecting their freedom of speech. "Compelling professors at a public university to allow, without any limitation or restriction, students to carry concealed guns in their classrooms chills their First Amendment rights to academic freedom," it says. The plaintiffs also claim that the campus carry law actually violates the Second Amendment because it the Second Amendment guarantees the right to a "well-regulated militia," which requires the "imposition of proper discipline and training." Requirements for concealed carry permits do not meet those standards, their complaint reads.

The court [ruled](#), however, that the plaintiffs' academic freedoms did not outweigh legislative decisions or the rights of the facility that employs them. The court stated it "found no precedent for plaintiffs' proposition that there is a right of academic freedom so broad that it allows them such autonomous control of their classrooms — both physically and academically — that their concerns override decisions of the legislature and the governing body of the institution that employs them."



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Judge Lee Yeakel cited the Supreme Court's 1990 ruling in *University of Pennsylvania v. EEOC*, in which the high court rejected the university's claim that the release of materials could limit academic freedoms by discouraging professors from expressing their opinions about their colleagues. The Supreme Court determined in that case that so long as the EEOC was not encouraging or mandating a specific viewpoint in the faculty documents, it was not limiting academic freedom.

"Similarly in this case, neither the Campus Carry Law nor the [University of Texas] Campus Carry Policy is a content-based regulation of speech, nor can either reasonably be construed as a direct regulation of speech," the judge ruled. "Plaintiffs assert that classroom discussion will be 'circumscribed by the near-certain presence of loaded guns' and that their ability to 'make [their classrooms] truly a marketplace for the robust exchange of ideas will be impaired.' They argue that they are now 'incentivized to err on the side of "trimming their sails," academically speaking,' when they push for classroom debate. Perhaps they are correct. But the Campus Carry Law and Policy do not direct plaintiffs either toward or away from any particular subject or point of view. The provisions do not prohibit, require, or even mention any form of speech by professors of the university. The burden of which plaintiffs complain therefore does not fit within any recognized right of academic freedom."

Eugene Volokh, the Gary T. Schwartz professor of law at the University of California Los Angeles, and an expert on the First and Second Amendments, [evaluated](#) the plaintiffs' arguments and ultimately determined that they had no legal standing, Inside Higher Ed [reports](#). "Whether law-abiding adult people who have concealed carry licenses should be able to carry on campus is an interesting and difficult policy question," he said. Yet Texas "has decided in favor of allowing such carry, and nothing in that violates the Constitution.... The claim has no legal foundation."

Regarding the plaintiffs' claims that the campus carry law will negatively impact students' freedom of discussion in the classroom, Volokh contends, "I don't think it does in public places, and I don't think it will in universities." Furthermore, he added that such "hypothetical risk[s] are not grounds to invalidate Texas' decision about gun rights."

As for the plaintiffs' claims that the Texas campus carry law violated the Second Amendment, this is absurd. The Second Amendment does not "guarantee the right to a well-regulated militia," as the plaintiffs assert, but it states that a well-regulated militia is necessary to the security of a free state. Bearing that in mind, the Second Amendment prohibits the federal government from infringing upon citizens' right to keep and bear arms. Thus, *prohibiting* the carrying of firearms on campus would be a potential violation of the Second Amendment.

Meanwhile, Renea Hicks, a lawyer for the Texas professors, told the *Texas Tribune* that even though the injunction has been denied, she will continue to pursue the case.

For now, Texas Attorney General Ken Paxton is celebrating the judge's ruling against the request for the preliminary injunction. "I am pleased, but not surprised, that the Court denied the request to block Texas' campus carry law. There is simply no legal justification to deny licensed, law-abiding citizens on campus the same measure of personal protection they are entitled to elsewhere in Texas," said Paxton.



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