

**IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA**

JOHN KNOX, MICHAEL G. NOLL,)
JAMES PORTER, LAUREL ROBINSON,)
ARISTOTELIS SANTAS, and WILLIAM)
B. WHITMAN,)

Plaintiffs,)

v.)

NATHAN DEAL, Governor of the State of)
Georgia, in his individual capacity, and his)
successors in office; CHRISTOPHER M.)
CARR, Attorney General of the State of)
Georgia, in his individual capacity, and his)
successors in office,)

Defendants.)

CIVIL ACTION
FILE NO. 2017CV295763

VERIFIED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

INTRODUCTION

1. Article VIII of the Georgia constitution vests the Board of Regents of the University System of Georgia (“Board of Regents” or “Board”) with exclusive power over “[t]he government, control, and management of the University System of Georgia.” Ga. Const. art. VIII, § 4, para. 1(b). The Board has delegated much of this authority to individual institutions within the University System of Georgia (“University System” or “USG”) and the faculty members thereof.

2. For over two centuries, going as far back as 1810, the Board of Regents and University System institutions have exercised this constitutional authority to prohibit firearms on University System campuses. As Defendant Deal himself acknowledged in 2016 when he vetoed legislation that would preempt this prohibition, “[f]rom the early days of our nation and

state, colleges have been treated as sanctuaries of learning where firearms have not been allowed.” Exh. 1, Georgia. Governor (2011 - : Deal). The Veto Message From the Governor of the State of Georgia, House Bill 859, May 2016.

3. In 2017, however, the Georgia General Assembly passed, and Defendant Deal signed, House Bill 280 (“HB 280” or the “Bill”). HB 280 took effect on July 1, 2017. It withdraws criminal penalties for weapons-carry license holders who possess concealed firearms “in any building or on real property owned by or leased to any public technical school, vocational school, college, or university, or other institution of postsecondary education.” Ga. Code Ann. § 16-11-127.1(20)(A).

4. In conjunction with two other Georgia statutes, the intended effect of HB 280 is to require institutions of higher learning, including those in the USG system, to permit licensed gun owners to carry concealed weapons on campus. Specifically, § 16-11-127(c) of the Georgia Code (the “Right to Carry Provision”) provides generally that licensed firearm owners can carry their weapons “in every location in this state” not otherwise prohibited—which, after the enactment of HB 280, includes University System campuses. And § 16-11-173(b) (the “Preemption Provision”) purports to prohibit any “county or municipal corporation, . . . agency, board, department, commission, political subdivision, school district, or authority of this state, other than the General Assembly” from regulating “in any manner . . . [t]he possession, ownership, transport, [or] carrying” of firearms. *See also* Ga. Code Ann. § 16-11-173(a)(1) (“It is declared by the General Assembly that the regulation of firearms and other weapons is properly an issue of general, state-wide concern.”). The Board of Regents supposedly falls within the scope of this preemption provision so that the University System’s prior no-guns policy—as well as any present or future policies regarding guns on campus, or in particularly

sensitive campus locations—are preempted. In the absence of the statutory provision criminally prohibiting guns on university and college campuses that existed prior to HB 280, these laws now operate to require guns to be allowed on University System campuses—regardless of the Board of Regents’ and University System institutions’ own duly adopted policies.

5. In combination, these provisions (collectively, the “Guns on Campus Laws”) therefore usurp the Board of Regents’ constitutionally conferred, exclusive authority over the “government, control, and management of the University System of Georgia.” Ga. Const. art. VIII, § 4, para. 1(b). And they interfere with the University System of Georgia’s educational mission.

6. Whether firearms on campuses help or hinder the cause of creating a safe and secure learning environment is, to be sure, a subject of intense debate. Reasonable minds can and do differ on this issue, but this case is not about who is right. Rather, it is about which entity decides. The Georgia Constitution vests “[t]he government, control, and management of the University System” in the Board of Regents, not in the legislature. As Defendant Deal himself acknowledged when he vetoed HB 280’s predecessor in 2016, this question of education policy is therefore for the Board to resolve, in conjunction with the faculties to which it has delegated responsibility for governance of University System institutions.

7. Accordingly, this Court should declare that the Guns on Campus Laws—HB 280 (as codified at Ga. Code Ann. § 16-11-127.1(2) and (20)(A)), Georgia Code Ann. § 16-11-127(c), and Ga. Code Ann. § 16-11-173(b)—are unconstitutional as applied, whether individually or together, to (A) require the Board of Regents, the University System, or any constituent institution or faculty member thereof to permit firearms on University System campuses in a manner contrary to longstanding University System policies; or (B) preempt or

invalidate any campus firearm policies established by the Board of Regents, the University System, or any constituent institution thereof through the procedures set forth in the Bylaws of the Board of Regents, the USG Policy Manual, and the policy manuals of constituent institutions. This Court should further enjoin Defendants from enforcing these provisions, whether together or individually, in any manner that (A) requires the Board of Regents, the University System, or any constituent institution or faculty member thereof to permit firearms on University System campuses in a manner contrary to longstanding University System policies; or (B) preempts or invalidates any campus firearm policies established by the Board of Regents, the University System, or any constituent institution or faculty member thereof through the procedures set forth in the Bylaws of the Board of Regents, the USG Policy Manual, and the policy manuals of constituent institutions.

JURISDICTION AND VENUE

8. This Court has jurisdiction over this matter pursuant to Ga. Code Ann. §§ 9-4-2, 9-4-3, 9-5-1, and the Georgia Constitution.

9. Venue is proper in this Court pursuant to Ga. Code Ann. § 9-10-30.

PARTIES

A. Plaintiffs

Professor Knox

10. Plaintiff John Knox is a gun owner, and his family (the Settle family) was a prominent manufacturer of Kentucky long rifles in the 1800s.

11. Professor Knox is a tenured professor at the University of Georgia as well as a resident and taxpayer in Georgia. He has been employed within the University System of Georgia for 16 years. Currently, Professor Knox is the Sandy Beaver Teaching Professor in the

Department of Geography, where he teaches geography and atmospheric sciences, including climate science. He is a member of numerous professional and academic associations, including the American Association of Geographers, the National Council for Geographic Education, and the American Meteorological Society.

12. Professor Knox has won several awards for his teaching, including the prestigious “Georgia Professor of the Year” honor from the CASE/Carnegie Foundation for the Advancement of Teaching. His courses include large introductory classes as well as smaller, more specialized classes. They often involve vigorous debate, including on controversial topics such as climate change. Professor Knox’s teaching style involves a mix of lecture and active learning, including role-playing exercises. Because interaction is crucial to Professor Knox’s courses, he cannot move them to an online format without sacrificing the educational experience of his students.

13. Professor Knox maintains close relationships with students, and he has had numerous interactions with students who are depressed or suicidal, and in at least one instance, reached out to campus police for help. He has also had encounters with students who have acted out in response to controversial topics.

14. Professor Knox has always had autonomy to regulate his office and classroom environments. Firearms and other weapons have never been permitted in Professor Knox’s office or classrooms. He believes that guns in the classroom make the learning environment less safe for everyone and negatively impact his educational mission. He is also particularly concerned that allowing guns on campus will lead to an increased number of student suicides. In addition, he is concerned about the dangers that guns on campus present to dual-enrolled pre-college students; because while Georgia law in the wake of HB 280 still precludes guns from

classrooms where such students are attending class, *see* Ga. Code Ann. § 16-11-127.1(c)(20)(A)(iv), it does not preclude guns from other spaces on campus where such students may be present—for example, common spaces they pass through as they travel from their vehicle or bus to the classroom and back.

15. In the absence of the Guns on Campus Laws, Professor Knox would continue to advocate for the no-gun policy the University had previously maintained. He would also exclude guns from his classrooms.

Professor Noll

16. Plaintiff Michael G. Noll is a tenured professor at Valdosta State University (“VSU”) as well as a resident and taxpayer in Georgia. He has been employed within the University System of Georgia for 17 years. Currently, Michael G. Noll is a Professor of Geography in the Department of Physics, Astronomy and Geosciences. He is a member of numerous professional and academic associations, including the American Association of Geographers, the National Council for Geographic Education, the Society for German-American Studies, and the Georgia Academy of Science.

17. Professor Noll has long been involved with university governance. He was a member of VSU’s Faculty Senate from 2003 until 2008, and from 2012 until 2015. Moreover, he served on the Executive Committee of that body in 2004 and 2007, and from 2013 until 2015, including a one-year term as President of the Faculty Senate in 2014. Professor Noll also chaired the Faculty Senate’s Institutional Planning Committee in 2007, and the Special Committee on Safety and Security in 2013. He has also served on numerous other committees on campus, including as the chair of his department’s Technology Committee and as a member of the University Promotion and Tenure Committee. In these roles, Professor Noll has regularly voted

on campus-wide policies and rules. In particular, he has long been involved in efforts to keep guns off campus, including by helping pass “no weapons” resolutions in 2012 and 2016 as a member of the Faculty Senate.

18. Professor Noll has always had autonomy to regulate his office and classroom environments, and he has exercised that authority to limit materials that can be brought into those spaces. He has imposed academic penalties for failure to comply with these rules. Professor Noll believes it is his responsibility to keep his students safe. Prior to passage of the Guns on Campus Laws, guns had never been permitted in Professor Noll’s office or classroom.

19. Professor Noll’s geography and geopolitics courses involve vigorous debate, including on difficult topics like the Holocaust, Rwanda, Syria, and the Jim Crow laws. Over the years, he has encountered emotionally and psychologically distressed students, some of whom have acted aggressively, and not just in his own classroom or office. Just this past academic year, a student ran out of a neighboring office, aggressively bumping into others on the way out. In addition, one of Professor Noll’s students committed suicide in 2014.

20. The vigorous debate Professor Noll seeks to foster is being and will continue to be chilled by allowing weapons in his classroom. Professor Noll fears that distressed students will discharge their weapons or use them to intimidate Professor Noll, other faculty members, or other students. To Professor Noll’s knowledge, similar concerns about the safety consequences of the Guns on Campus Laws have led at least two professors to announce their intent to retire early. In addition, Professor Noll is aware of other professors who are considering arming themselves for self-defense, creating the potential for an even more volatile environment.

21. In the wake of HB 280, to protect his and his students’ safety, Professor Noll has made changes to his teaching practices. For example, Professor Noll no longer plans to hold in-

person office hours, and he will transition his core courses to an online format, even though he believes that such courses are less effective in light of his teaching methodology. He also has posted a “No Weapons” sign on his faculty office door. Professor Noll does not intend to adjust his grading policy, though he fears armed intimidation or gun violence from students who receive failing grades.

22. In the absence of the Guns on Campus Law, Professor Noll would continue to advocate for the no-gun policy the University had previously maintained. He would also continue to exclude guns from his classrooms.

Professor Porter

23. Plaintiff James Porter is a professor emeritus at the University of Georgia as well as a resident and taxpayer in Georgia. He has been employed within the University System of Georgia for 40 years. Professor Porter currently holds the title of Josiah Meigs Distinguished Professor of Ecology and Marine Sciences in the Odum School of Ecology, Emeritus. He is a member of numerous professional and academic associations.

24. Professor Porter has long been involved with university governance. In particular, he previously served as Associate Dean, Odum School of Ecology, as Associate Director for Academic Affairs, Institute of Ecology, and as a member of the Faculty Senate and University Council. Professor Porter served for ten years on the University of Georgia curriculum committee.

25. Professor Porter has always had autonomy to regulate his office and classroom environments, and he has exercised that authority to limit the materials that can be brought into those spaces. He also maintains control over materials and conduct during field research trips.

Prior to passage of the Guns on Campus Laws, guns had never been permitted in Professor Porter's office or classroom.

26. Professor Porter teaches an environmental literacy course that is mandatory for every undergraduate student as part of the University of Georgia's "Environmental Literacy" graduation requirement. The course entails vigorous debate over controversial topics—such as climate change, evolution, and environmental ethics—both in a large classroom setting and in smaller breakout sections. Professor Porter uses his own book, *Opposing Points of View in Environmental Science*, to facilitate class discussion.

27. Professor Porter believes that the vigorous debate he seeks to foster in his classroom is being and will continue to be negatively affected by the presence of guns in the classroom. In particular, Professor Porter is concerned about the possibility that distressed students may discharge weapons or use them for intimidation purposes.

28. In the absence of the Guns on Campus Laws, Professor Porter would continue to advocate for the no-gun policy the University had previously maintained. He would also continue to exclude guns from his classrooms.

Professor Robinson

29. Plaintiff Laurel Robinson is a tenured professor at Georgia Southwestern University as well as a resident and taxpayer in Georgia. She has been employed within the University System of Georgia for 40 years. Currently, Professor Robinson is a Full Professor and Chair of the Department of Visual Arts and the most senior faculty member on campus. She is a member of the Southeastern College Art Conference.

30. Professor Robinson has long been involved with university governance. In addition to chairing her department, Professor Robinson is a current member of the Faculty

Senate. She was also recently elected as the Chair of the University's Business and Finance Committee. In 2017, she served on the ad hoc faculty committee to address guns on campus.

31. Professor Robinson teaches painting and drawing at all levels, and her department offers the only glass-blowing program in the state of Georgia. Her methodology includes open critique of student work wherein students are given feedback on their work during class and in front of other students. Students are sometimes upset if the feedback is not positive.

32. Professor Robinson, as Department Chair, is the facility and personnel manager of an eight-studio facility that includes equipment, chemicals, and materials such as furnaces, welding and power tools, solvents, pressurized gases, and various chemicals. One studio contains a plasma cutter—a machine used to cut steel—that reaches temperatures in excess of 20,000 degrees Fahrenheit (hotter than the surface of the sun). Open furnaces for glass blowing reach temperatures as hot as 2,000 degrees Fahrenheit.

33. Professor Robinson has always had autonomy to regulate her office, classroom, and studio environments, and she has exercised that authority to limit the materials that can be brought into those spaces. The rules regarding safety in the art studio are particularly strict. For instance, students may not wear polyester clothing for glass-blowing and welding, and they must wear safety glasses and close-toed shoes in the glass-blowing and sculpture studios. Headphones are prohibited. In addition, students have to be trained and certified to use specific pieces of equipment. The studio is open 24 hours a day, and students with an after-hours pass are given access by campus police. Prior to passage of the Guns on Campus Laws, guns had never been permitted in Professor Robinson's classroom or studio.

34. Georgia Southwestern has instituted a policy that, in the event students need to be separated from their backpacks during a class, they should holster/carry their guns on their

persons. Students have been informed that in all studio classes this semester, they will be separated from purses and backpacks during the class.

35. Accidental or purposeful discharge of a gun inside the sculpture and glass-blowing studios where large tanks of compressed gas are present could cause a dangerous explosion which could kill or injure others in the classroom. Even absent a discharge, sparks and heat from the furnaces and other equipment make the studio a dangerous environment for firearms and munitions.

36. In the absence of the Guns on Campus Laws, Professor Robinson would continue to advocate for the no-gun policy the University had previously maintained. She would also continue to exclude guns from her classroom and art studios.

Professor Santas

37. Plaintiff Aristotelis Santas is a tenured professor at Valdosta State University as well as a resident and taxpayer in Georgia. He has been employed within the University System of Georgia for 27 years. Currently, Professor Santas is a Professor of Philosophy and Religious Studies. He is a member of numerous professional and academic associations, including the Southeastern Philosophy of Education Society, the Society for Advancement of American Philosophy, and the Georgia Philosophical Society.

38. Professor Santas has long been involved with university governance. He currently chairs the Departmental Promotion and Tenure Committee, and he has previously headed VSU's Department of Philosophy and Religious Studies. Professor Santas was also previously the Coordinator for VSU's Center for Professional Ethics. He is currently the Coordinator of VSU's Arts and Sciences Environmental Studies Program.

39. Professor Santos has always had autonomy to regulate his office and classroom environments, and he has exercised that authority to limit materials that can be brought into those spaces. He has imposed academic penalties for failure to comply with these rules. Prior to passage of the Guns on Campus Laws, guns had never been permitted in Professor Santos's office or classroom.

40. Professor Santos's courses involve vigorous debate, including on difficult topics such as race, sexuality, and gender. His regular courses include Fundamentals of Philosophy, a required course for students in his department and part of the University core curriculum.

41. Professor Santos regularly encounters emotionally and psychologically distressed students. Once, a student climbed up onto a table during a class debate and made aggressive comments and gestures to another student; Professor Santos had to intervene physically to get the student to calm down. One of Professor Santos's students committed suicide in 2003.

42. The vigorous debate Professor Santos seeks to foster is being and will continue to be chilled by allowing weapons in his classroom. Because of the Guns on Campus Laws, Professor Santos will no longer promote discussion of hot-button issues in his classroom. In addition, as a result of the Guns on Campus Laws, Professor Santos no longer requires attendance in his classrooms and permits students to leave the classroom whenever they feel unsafe. Beginning next semester, Professor Santos will transition his Fundamentals course to a completely online format. Professor Santos previously required in-person attendance in his classes and believes attendance is important because his teaching methodology relies on student participation.

43. In the absence of the Guns on Campus Laws, Professor Santas would continue to prohibit guns in his classroom and advocate for the prohibition of guns on campus. He would also return to his prior policy of requiring attendance in his classes.

Professor Whitman

44. Plaintiff William B. Whitman is a tenured professor at the University of Georgia as well as a resident and taxpayer in Georgia. He has been employed within the University System of Georgia for 35 years. Currently, Professor Whitman is a Full Professor in the Department of Microbiology at the University of Georgia. He previously served two terms as Head of the Department and has been a member of numerous College and University administrative committees. Currently, he is a member of the University Council, which establishes policies and enacts rules and regulations for the University of Georgia. He is a fellow of numerous professional and academic associations, including the American Association for the Advancement of Science and the American Society for Microbiology.

45. Professor Whitman teaches senior level and graduate level microbiology classes, including prokaryotic biology and microbial diversity. His lectures sometimes focus on controversial topics, including evolution. And his teaching methodology involves classroom debate in which some strongly held beliefs are challenged. Over the years, Professor Whitman has taught many students with depression and other mental illnesses.

46. Professor Whitman operates a laboratory to which graduate students conducting experiments have access. Professor Whitman's laboratory contains approximately \$100,000 of equipment, including computers and testing equipment. It also contains volatile chemicals and other hazardous chemicals, radioisotopes, biohazardous recombinant microorganisms, and compressed gases, including hydrogen. The gases are stored in cylinders that, if pierced, will

explode. Flammable materials are stored in a cabinet made of thin metal that could easily be pierced by a bullet.

47. Professor Whitman has always had autonomy to regulate his office, classroom, and laboratory environments, and he has exercised that authority to limit the materials that can be brought into those spaces. The rules regarding safety in the laboratory are particularly strict. Students have to undergo safety training, including on hazardous materials and radiation, in order to use the lab. Prior to passage of the Guns on Campus Laws, guns had never been permitted in Professor Whitman's office, classroom, or laboratory.

48. The vigorous debate Professor Whitman seeks to foster is being and will continue to be chilled by allowing weapons in his classroom. In addition, accidental or purposeful discharge of a gun inside the laboratory could cause an explosion that would destroy parts of the building and release dangerous chemicals, radioisotopes, or biohazardous recombinant microorganisms into the environment.

49. Because of the dangers posed by the presence of guns in Professor Whitman's classroom and laboratory, Professor Whitman plans to retire if guns become too prevalent on campus.

50. In the absence of the Guns on Campus Laws, Professor Whitman would continue to advocate for the no-gun policy the University had previously maintained. He would also continue to exclude guns from his classroom and laboratory.

B. Defendants

51. Defendant Nathan Deal is the Governor of the State of Georgia. As Governor, Defendant Deal signed HB 280 into law. In addition, the Georgia Constitution vests "[t]he chief executive powers . . . in the Governor" and provides that "[t]he Governor shall take care that the

laws are faithfully executed.” Ga. Const. art. 5 § 2, ¶¶ 1–2. Moreover, the Governor “shall provide for the defense of any action . . . the result of which is of interest to the state because of any claim inconsistent with the state’s sovereignty, jurisdiction, or rights.” Ga. Code Ann. § 45-12-26. As such, Defendant Deal is responsible for enforcing the Guns on Campus Laws and defending the constitutionality thereof. Defendant Deal is sued in his individual capacity, as are his successors in office.

52. Defendant Christopher M. Carr is the Attorney General of the State of Georgia. According to the Georgia Constitution, the Attorney General is “the legal advisor of the executive department” and “shall perform such . . . duties as shall be required by law.” Ga. Const. art. 5, § 3, ¶ IV; *see also* Ga. Code Ann. § 45-15-3. As such, Defendant Carr is also responsible for enforcement and defense of the Guns on Campus Laws. Defendant Carr is sued in his individual capacity, as are his successors in office.

BACKGROUND

A. University Autonomy and Academic Freedom

53. The Georgia constitution provides that “[t]he government, control, and management of the University System of Georgia and all of the institutions in said system shall be vested in the Board of Regents of the University System of Georgia.” Ga. Const. art. VIII, § 4, para. 1(b) (the “University Autonomy Provision”). The constitution further endows the Board with certain enumerated powers, including the abilities to (1) create new public educational institutions, subject to approval by the Georgia legislature; (2) allocate appropriations without legislative oversight; (3) accept donations and transfer property; (4) and exercise eminent domain power. *See id.*, art. VIII, § 4, para. 1(b)–(e).

54. The history of the adoption of Article VIII's grant of "[t]he government, control, and management of the University System of Georgia" to the Board of Regents makes clear that it endows the Board with plenary authority over the University System. In particular, the University Autonomy Provision was adopted in the wake of efforts by Georgia Governor Eugene Talmadge, a segregationist, to fire Walter Cocking, a University of Georgia dean who Talmadge had been informed was an advocate for integrated schooling. *See generally* James F. Cook, *The Eugene Talmadge-Walter Cocking Controversy*, *Phylon*, Vol. 35, No. 2 (2d Qtr. 1974). After Board of Regents members and University System officials raised obstacles to Cocking's firing, Talmadge forced out several members of the Board of Regents, replacing them with loyalists. *See id.* at 190. The reconstituted Board ultimately ousted Cocking, along with nine other educators from the University System. *Id.* at 192.

55. In response to Talmadge's interference, the Southern Association of Colleges and Secondary Schools removed accreditation from ten Georgia institutions, finding that "the University System of Georgia has been the victim of unprecedented and unjustifiable political interference," and that Governor Talmadge's actions violated both "sound educational policy" and "proper democratic procedure." Brooks, *The University of Georgia Under Sixteen Administrations: 1785-1955* at 193 (1956). In large part for this reason, Governor Talmadge was not reelected, and the new Governor, together with the General Assembly, amended the Georgia Constitution to provide a guarantee of autonomy to the University System. *Id.* at 194-95. Accreditation was then immediately restored to the University System institutions. *Id.* at 195-96.

56. All three branches of the Georgia state government have acknowledged that, consistent with the University Autonomy Provision, the Board has plenary power over the University System.

a. Georgia courts have said, for example, that “[t]here is but one entity in which are vested the government, control and management of the University System of Georgia.” *Azizi v. Bd. of Regents of Univ. Sys.*, 208 S.E.2d 153, 157 (Ga. App. 1974); *see also Villyard v. Regents of Univ. Sys. of Ga.*, 50 S.E.2d 313, 315–16 (Ga. 1948) (stating that the Board’s powers are “plenary”).

b. The State legislature, too, has previously recognized the Board’s constitutional autonomy. *See, e.g.*, Ga. Code Ann. § 20-3-51 (providing that “[t]he government, control, and management of the university system and all of its institutions shall be vested in the [B]oard of [R]egents”); *see also, e.g., id.* at § 20-3-30 (providing that the Board is empowered to “establish such rules and regulations for its own direction as it may deem proper”).

c. Georgia Attorneys General have expressed the same view on behalf of the executive branch. *See, e.g.*, 1945-47 Atty. Gen. Op. 231 (Oct. 18, 1946) (“The Constitution desires to protect all powers and duties of the Board of Regents and [ensures] that this authority is not later taken away from the Board by subsequent legislation.”). Indeed, one Attorney General opinion found that that the Board’s authority to “control and manag[e] the university system” empowered the Board to purchase a passenger vehicle for forestry research notwithstanding that a statute prohibited the expenditure of state funds for the purchase of such vehicles. *See* 1950-51 Atty. Gen. Op. 288 (Nov. 28, 1951). And another, more recent opinion

found that a joint resolution passed by the legislature could not permissibly impinge on the Board's authority to govern, control, and manage the university system by requiring it to continue a particular officer training program. *See* 1996 Atty. Gen. Op. 125, opinion U96-12 (June 11, 1996).

57. The Board of Regents exercises its constitutionally conferred authority to govern twenty-nine institutions of higher education, including the University of Georgia, Georgia Southwestern University, and Valdosta State University. *See* Bylaws §§ 1(2), 1(6), 5(6); Board of Regents Policy Manual ("Policy Manual"), Overview, <http://www.usg.edu/policymanual/> (last accessed September 20, 2017) ("The Georgia Constitution grants to the Board of Regents the exclusive right to govern, control, and manage the University System of Georgia, and all USG institutions.").

58. The Board has adopted a formal policy of "unalterabl[e] oppos[ition] to political interference or domination of any kind or character in the affairs of any [University System of Georgia] institution." *Id.* § 12.1.

59. The Board has largely delegated management of each higher-learning institution to the faculty thereof. University presidents are ex-officio faculty chairs and have "the right to call meetings of any council, faculty, or committee at [their] institution[s] at any time," as well as to veto any actions taken. *Id.* §§ 2.1; 2.5.2. Each institution's faculty governing body must meet at least once each academic term. *See id.* § 3.2.3. Subject to approval by the university president, that body must, among other things, (1) "[m]ake statutes, rules, and regulations for its governance and for that of the students"; (2) develop regulations concerning "admission, suspension, expulsion, classes, courses of study, and requirements for graduation"; and (3)

establish other regulations, as necessary, related to the “maintenance of high educational standards.” *Id.* § 3.2.4.

60. Through such regulations universities within the University System of Georgia have sought to create “a creative climate of free inquiry and free expression” that “serves . . . students, staff, faculty, other institutions, and society in general.” Ga. State Univ., Faculty Handbook § 206.03; *see also, e.g.*, Ga. Gwinnett Coll., Faculty Manual of Policies and Procedures § 3.50 (“The administration, faculty, staff and students share responsibility for fostering a climate that is favorable to the free exchange of ideas and to the examination of conflicting ideas and interpretations using generally accepted disciplinary standards of inquiry.”).

61. To that end, faculty members are permitted to “speak freely on all matters of college governance, and may speak, work, or act as an individual in the public arena without fear of institutional discipline or restraint.” *Id.* § 3.50. They are also “entitled to freedom in the classroom in discussing [their] subject[s].” *Id.* § 3.50. And, with limited exceptions, they “have the right to allow or deny visitors to their classrooms.” *Id.* § 3.15.

B. History of Gun Regulation on University Campuses

62. Whether to permit guns on campus is an important question of educational policy that lies at the core of a university’s educational mission.

63. Perhaps most notably, the decision directly and predictably affects faculty decisions about how to teach their classes and interact with students and, thus, affects students’ educational experience. As the American Association of University Professors stated in a 2015 Joint Statement Opposing guns-on-campus laws, “[c]ollege campuses are marketplaces of ideas, and a rigorous academic exchange of ideas may be chilled by the presence of weapons.” AAUP, Joint Statement Opposing “Campus Carry” Laws (Nov. 12, 2015),

<https://www.aaup.org/file/CampusCarry>. Indeed, a recent survey of faculty at Kansas educational institutions (on which campuses guns are now permitted) found that two thirds of professors reported that “allowing guns in the classroom limits their academic freedom to teach . . . and engage with students in a way that optimizes learning,” and three in five professors were concerned that they would have to change the way they teach if guns were allowed on campus. Kansas Board of Regents Council of Faculty Senate Presidents Campus Employees’ Weapons Survey at 2 (2016),

[https://www.fhsu.edu/uploadedFiles/executive/docking/Regents%20FacultyStaff%20Gun%20Survey%202015%20\(2\).pdf](https://www.fhsu.edu/uploadedFiles/executive/docking/Regents%20FacultyStaff%20Gun%20Survey%202015%20(2).pdf).

64. Because it affects a university’s core academic mission, the decision whether to allow guns on campus also affects faculty and student recruitment and retention. Parents report concern with guns on campus as a factor in their decision regarding where to send their children to university. *See, e.g.,* Maureen Downey, *As Colleges Figure Out How to Accommodate Guns, Parents Continue to Worry*, Atlanta Journal Constitution, May 8, 2017, <http://getschooled.blog.myajc.com/2017/05/08/as-colleges-figure-out-how-to-accommodate-guns-parents-continue-to-worry/>; Maureen Downey, *High School Parents Don’t Want Their Teens on Armed Campuses*, April 7, 2016, <http://getschooled.blog.myajc.com/2016/04/07/dual-enrollment-may-decline-if-georgia-allows-guns-on-campus/>. And educators have recognized that allowing guns on campus “could encourage [the] best and most heavily recruited faculty to more strongly consider offers from other institutions of higher learning that do not allow concealed weapons on campus.” Rebecca Burns and Nate Harris, *Campus Carry Has Georgia’s Pro-Gun Governor in the Hot Seat Again*, The Trace (May 2, 2017).¹

¹ These concerns are consistent with the experience at, for example, the University of Texas, where in the wake of the adoption of a guns-on-campus law some faculty left to take jobs

65. Historically, the Board of Regents and University System institutions have taken the position that the free exchange of ideas is significantly curtailed if students or faculty are, or even feel, physically unsafe; and they have accordingly prioritized campus safety. For example, Georgia Gwinnett College has committed to “provid[ing] a secure learning environment which allows members of the community to express their views in ways which do not disrupt the operation of the College.” Ga. Gwinnett Coll., Faculty Manual of Policies and Procedures § 4.1.9. Similarly, the University of Georgia’s Faculty Handbook provides that all “faculty, staff and students . . . have shared responsibility and accountability to the University and to each other to ensure a safe learning, working, and research environment.” Univ. of Ga., Faculty Handbook § 3.02.

66. Consistent with these broader educational and safety goals, guns have been prohibited within the University System of Georgia since at least as far back as 1810. *See Minutes of the Senatus Academicus 1799–1842, Minutes from 1810, at 86* (“And be it further ordained that no student shall be allowed to keep any gun, pistol, Dagger, Dirk sword cane or any other offensive weapon in College or elsewhere, neither shall they or either of them be allowed to be possessed of the same out of the college in any case whatsoever.”). More recently, in 2010, when the General Assembly was debating a similar bill, University System officials introduced a statement by the Chairman of the Board of Regents, the University System Chancellor, and the individual institutional presidents, all supporting prohibition of guns on campus. “We are deeply concerned about proposed legislation that would permit firearms on our

(continued...)

in other states, and some educators withdrew from consideration for jobs at Texas institutions. *See Molly Hennessy-Fiske, New Law Allowing Concealed Guns on Campus Roils University of Texas*, L.A. Times, Mar. 26, 2016, <http://www.latimes.com/nation/la-na-texas-campus-carry-20160324-story.html>.

campuses,” the Statement provided. Exh. 2, Board of Regents of the University System of Georgia, Statement by the Chairman of the Board of Regents, the Chancellor, and the Institutional Leadership of the University System of Georgia, (January 27, 2010). “We do not think this promotes a safe learning environment for our students or is in the best interest of the state or of the University System.” *Id.*

67. The University System of Georgia is not unusual in this respect. To the contrary, universities have been regulating guns on campus since before the Founding. At least as far back as 1655, Harvard University’s bylaws provided that “[n]o students shall be suffered to have a gun in his or their chambers or studies, or keeping for their use anywhere else in the town.” The Laws Of Harvard College, 1655, at 10 (1876), <https://archive.org/details/acopylawsharvar00unkngoog>. Similarly, the University of Virginia has long prohibited students from keeping or carrying guns on campus. Meeting Minutes of the University of Virginia Board of Visitors, Oct. 4, 1824, <http://bit.ly/1eyAWeB> (“No student shall within the precincts of the University, introduce, keep or use any spirituous or vinous liquors, keep or use weapons or arms of any kind, or gunpowder, keep a servant, horse or dog, appear in school with a stick, or any weapon.”). So too at Yale College. See Franklin Bowditch Dexter, 2 *Biographical Sketches Of The Graduates Of Yale College With Annals Of The College History* 8 (1896), <https://books.google.com/books?id=tatNAAAAMAAJ> (prohibiting any student from “keep[ing] a gun or pistol, or fir[ing] on in the College-yard or College”).

B. House Bill 280

68. Georgia law previously mirrored the University System’s no-guns policy. Specifically, § 16-11-127.1 previously provided that university campuses were “school safety

zones” where carrying or possessing a weapon—including a firearm—triggered criminal penalties. *See, e.g.*, 2010 Georgia Laws Act 643 (S.B. 308).

69. In May 2017, however, Defendant Deal signed HB 280 into law. The Bill, which took effect on July 1, 2017, withdraws all penalties for the carrying and possession of handguns in certain manners by weapons-carry license holders in certain buildings or “on real property owned by or leased to . . . any . . . public institution of postsecondary education.” Ga. Code Ann. § 16-11-127.1(20)(A).

70. In conjunction with the Right to Carry Provision and the Preemption Provision, the effect of HB 280 is to require institutions of higher learning, including those in the USG system, to permit licensed gun owners to carry concealed weapons on campus. Specifically, the Right to Carry Provision provides generally that licensed firearm owners can carry their weapons “in every location in this state” not otherwise prohibited. Ga. Code Ann. § 16-11-127(c). And the Preemption Provision prohibits any “county or municipal corporation, . . . agency, board, department, commission, political subdivision, school district, or authority of this state, other than the General Assembly” from regulating “in any manner . . . [t]he possession, ownership, transport, [or] carrying” of firearms. Ga. Code Ann. § 16-11-173; *see also id.* § 16-11-173(a)(1) (“It is declared by the General Assembly that the regulation of firearms and other weapons is properly an issue of general, state-wide concern.”). The Board of Regents purportedly falls within the scope of this preemption provision so that the University System’s prior no-guns policy—and any present or future policies regarding guns on campus, or in particularly sensitive campus locations—is preempted.

71. The purpose and effect of enacting HB 280 was to override existing USG policies prohibiting guns on campus and to compel the University System institutions to allow

individuals to carry concealed firearms. HB 280, in conjunction with the Right to Carry Provision and the Preemption Provision, has caused University System institutions to alter their longstanding policies and require guns to be allowed on their campuses.

72. The combined effect of Guns on Campus Laws is to usurp the Board of Regent's constitutionally protected authority—which, in turn, it had largely delegated to individual institutions and the faculty thereof—to set policy concerning educational matters on college campuses, including whether guns will be permitted on campus and in classrooms.

73. For that reason—and because guns on campus and in classrooms will interfere with the educational mission of the University System of Georgia and endanger the safety of faculty and students—the Board of Regents and multiple individual University of Georgia institutions publicly opposed HB 280 and/or past legislative efforts to bring guns on campus. *See, e.g.*, Exh. 2, Board of Regents of the University System of Georgia, Statement by the Chairman of the Board of Regents, the Chancellor, and the Institutional Leadership of the University System of Georgia (January 26, 2010); Exh. 3, Statement by University System of Georgia Chancellor (February 20, 2017); Exh. 4, Georgia Gwinnett College, Faculty Senate Resolution (2016); Exh. 5, Valdosta State University, Faculty Senate Resolution (April 2012, March 2016).

FACTS

74. As alleged in Paragraphs 53–61, the Georgia Constitution endows the Board of Regents with plenary authority over the government, control, and management of the University System of Georgia. The Board, in turn, has largely delegated that authority to the University System's constituent institutions and faculty members.

75. As alleged in Paragraphs 65–66, guns have long been prohibited on University System campuses.

76. As alleged in Paragraphs 68–73, HB 280, together with Ga. Code Ann. §§ 16-11-173(a)(1) & (b)(1)(B), usurp the Board of Regent’s authority to regulate guns on college campuses and interfere with the educational mission of the University System of Georgia.

77. As alleged in Paragraphs 11, 16-17, 23-24, 29-30, 37-38, 44, and 57-61, Plaintiffs are faculty members at universities within the University System of Georgia and are active in the day-to-day management of their universities that, subject to the oversight of the Board of Regents, constitutes the University System’s autonomous system of self-government.

78. The presence of guns in classrooms and laboratories will create an increased risk of physical harm to Plaintiffs, other university employees, and students. Especially in laboratory or studio environments, even an accidental discharge could yield devastating consequences. Moreover, a recent, comprehensive academic review of the evidence and studies on guns-on-campus laws found that “[i]ncreasing gun availability in campus environments could make far more common acts of aggression, recklessness, or self-harm more deadly and, thus, have a deleterious impact on the safety of students, faculty, and staff.” Webster, et al., *Firearms on Campuses: Research Evidence and Policy Implications* 3 Johns Hopkins Bloomberg School of Public Health (2016), http://www.jhsph.edu/research/centers-and-institutes/johns-hopkins-center-for-gun-policy-and-research/_pdfs/GunsOnCampus.pdf. This is due, in part, to unique characteristics of the college-aged population and campus environment, including unreliable impulse control among young adults, the prevalence of substance abuse on college campuses, and the stress that comes with living away from home for the first time.

79. In addition, the presence of guns on campus creates a perceived risk of harm that adversely affects the academic environment.

80. The Board of Regents and University System institutions had previously determined that the presence of guns in classrooms and laboratories would inhibit the free exchange of ideas and otherwise interfere with the educational mission of the University System of Georgia. By overriding that policy, the Guns on Campus Laws have already affected the educational environment on University System campuses. For example, as alleged in Paragraphs 21 and 42, Professors Noll and Santas have already had to sacrifice their preferred teaching methodology to account for the possibility of guns in their classrooms.

81. As alleged in Paragraphs 14-15, 18, 22, 25, 28, 33, 36, 39, 43, 47, and 50, Plaintiffs have long maintained control over their classrooms and laboratories. But for the Guns on Campus Laws, Plaintiffs would exclude guns from their classrooms, laboratories, and art studios. They would also advocate for no-gun policies at their respective institutions pursuant to their delegated authority, as faculty members, to establish rules and policies on campus.

82. As alleged in Paragraphs 15, 20-22, 27-28, 34-36, 42-43, 48-50, and 71, Plaintiffs have been forced to permit guns within their classrooms and laboratories as a result of the Guns on Campus Laws. These Plaintiffs still desire to exclude weapons from these spaces and would do so in the absence of the Guns on Campus Laws.

CLAIMS FOR RELIEF

COUNT I

(Violation of Ga. Const. art. VIII, § 4)

83. Plaintiffs incorporate the preceding paragraphs as if fully set forth herein.

84. The Georgia constitution endows the Board of Regents with exclusive authority over the “government, control, and management of the University System of Georgia.” Ga. Const. art. VIII, § 4, para. 1(b).

85. HB 280 and Ga. Code Ann. §§ 16-11-127(c), and § 16-11-173(b) are inconsistent with that constitutional provision and are unconstitutional, preempted, and void to the extent they are applied—whether individually or together—to (A) require the Board of Regents, the University System, or any constituent institution or faculty member thereof to permit any individual to carry a firearm on University System campuses in a manner contrary to longstanding University System policies; or (B) to preempt or invalidate any campus firearm policies established by the Board of Regents, the University System, or any constituent institution or faculty member thereof through the procedures set forth in the Bylaws of the Board of Regents, the USG Policy Manual, and policy manuals of constituent institutions. Through the Board of Regents, it is the University System, not the Georgia Legislature, that has the constitutional power to set policy concerning firearms within the University System of Georgia.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs request that this Court enter judgment in their favor and:

a. Declare that HB 280 and Ga. Code Ann. §§ 16-11-127(c), and § 16-11-173(b) are inconsistent with, and thus invalid under, Ga. Const. art. VIII, § 4, as applied—whether individually or together—to (A) require the Board of Regents, the University System, or any constituent institution or faculty member thereof to permit any individual to carry a firearm on University System campuses in a manner contrary to longstanding University System policies; or (B) to preempt or invalidate any campus firearm policies established by the Board of Regents, the University System, or any constituent institution or faculty member thereof through the

procedures set forth in the Bylaws of the Board of Regents, the USG Policy Manual, and policy manuals of constituent institutions.

b. Enter an injunction barring Defendants from enforcing of HB 280 and Ga. Code Ann. §§ 16-11-127(c), and § 16-11-173(b)—whether individually or together—to (A) require Plaintiffs, the Board of Regents, the University System, or any constituent institution or faculty member thereof to permit any individual to carry a firearm on University System campuses in a manner contrary to longstanding University System policies; or (B) to preempt or invalidate any campus firearm policies established by the Board of Regents, the University System, or any constituent institution or faculty member thereof through the procedures set forth in the Bylaws of the Board of Regents, the USG Policy Manual, and policy manuals of constituent institutions.

c. Award Plaintiffs their litigation costs and reasonable attorneys' fees and expenses;
and

d. Order such other relief as the Court may deem just and proper.

Dated: September 25, 2017

Respectfully submitted,

/s/ Peter C. Canfield

Peter C. Canfield
Georgia Bar No. 107748
pcanfield@jonesday.com
Jennifer Bunting-Graden
Georgia Bar No. 188520
jbuntinggraden@jonesday.com
Brian Lea
Georgia Bar No. 213529
blea@jonesday.com
JONES DAY
1420 Peachtree Street, N.E.
Suite 800
Atlanta, GA 30309
Telephone: +1.404.521.3939
Facsimile: +1.404.581.8330

Charlotte H. Taylor
Pro hac vice application forthcoming
JONES DAY
51 Louisiana Avenue, N.W.
Washington, D.C. 20001
Telephone: +1.202.879.3939
Facsimile: +1.202.626.1700
ctaylor@jonesday.com

Attorneys for Plaintiffs