

POLICY EBCF

Related Entries: EBCF-R, JICF, JICF-R, GAB, GAB-R
Responsible Office: Deputy Superintendent for Operations

FIREARMS AND WEAPONS ON SCHOOL DISTRICT PROPERTY

I. PURPOSE

States and local governments, such as school boards, may establish gun free school zones. The purpose of Policy EBCF is to establish Las Cruces Public Schools as a gun free zone consistent with federal and state law, and further specify who, when, and for what limited safety or educational purpose a firearm or weapon can be carried on school district premises.

II. BACKGROUND

- A. The Gun-Free School Zones Act of 1990 (“GFSZA”), re-enacted in 1996, prohibits any person from knowingly possessing a firearm in a school zone with some exceptions. GFSZA, with some exceptions, also prohibits any person from knowingly, or with reckless disregard for the safety of another, discharging or attempting to discharge a firearm in a school zone. Moreover, the GFSZA does not preempt or prevent states and local governments, including school boards, from establishing gun free school zones. (18 USC § 922 (2015)).
- B. The State of New Mexico has established school district premises and school zones as gun free zones by:
1. Making it a violation of the Code of Ethical Responsibility of the Education Profession to bring firearms onto school property or possess them on school property without proper authorization (6.60.9.9(C)(23)(c) NMAC);
 2. Prohibiting volunteers in schools and school districts from bringing or possessing firearms or other weapons on school property except with proper authorization (6.50.18.8(C)(19) NMAC);
 3. Requiring school districts to prohibit private persons who use school or school district facilities from having guns on school property except for those in the possession of authorized law enforcement personnel (6.50.17.8(G)(2) NMAC);
 4. Requiring school districts to adopt a policy to provide for the expulsion from school, for a period of not less than one year, of any student who is determined to have knowingly brought a weapon to a school under the jurisdiction of the local board with limitations and permissible modifications (NMSA 1978, § 22-5-4.7(A) (1995)); and
 5. Making it unlawful to carry a deadly weapon on school premises except as expressly permitted under State statute (NMSA 1978, § 30-7-2.1 (1994)).

- C. The Board of Education has the duty under state law to maintain all property belonging to the school district (NMSA 1978, § 22-5-4(H) (2005)).
- D. The Superintendent is accountable under state law for student safety. (6.29.1.9(B)(6) NMAC).

III. DEFINITIONS

- A. “*Destructive device*” means any explosive, incendiary, or poison gas bomb, grenade, rocket having a propellant charge of more than four ounces, missile having an explosive or incendiary charge of more than one-quarter ounce, mine, or similar device (18 USC § 921(a)(4) (2006));
- B. “*Firearm*” means (A) any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; (B) the frame or receiver of any such weapon; (C) any firearm muffler or firearm silencer; or (D) any destructive device (18 USC § 921(a)(3) (2006)). Examples of firearm include: shotgun, short-barreled shotgun, rifle, short-barreled rifle, semiautomatic rifle, handgun, machinegun, etc. The term “firearm” does not include an antique firearm (18 USC § 921 (2006)).
- C. “*School premises*” means the buildings and grounds, including playgrounds, playing fields and parking areas and any school bus of any public school in or on which school or school-related activities are being operated under the supervision of the Las Cruces Board of Education; or any other public building or grounds, including playing fields and parking areas that are not public school property, in or on which public school-related and sanctioned activities are being performed (NMSA 1978, § 30-7-2.1(B) (1994)).
- D. “*School zone*” means in or on the grounds of a public, parochial or private school; or within a distance of 1,000 feet from the grounds of a public, parochial or private school (18 USC § 921(a)(25)).
- E. “*Weapon*” means for the purposes of this section, “weapon” means any firearm that is designed to, may readily be converted to or will expel a projectile by the action of an explosion; and any destructive device that is an explosive or incendiary device, bomb, grenade, rocket having a propellant charge of more than four ounces, missile having an explosive or incendiary charge of more than one-quarter-ounce, mine or similar device (NMSA 1978, § 22-5-4.7(C) (1995)).

IV. POSITION

- A. Unless expressly permitted under this policy and state and federal law, the Las Cruces Public Schools, including its school premises and school zone, is a gun-free zone.
- B. On-duty law enforcement officers, including School Resource Officers, may carry firearms on school premises and in school zones. The firearms do not need to be concealed.

- C. Based on a determination by the Superintendent of a bona fide safety reason, the Superintendent may grant permission to school security personnel with a proper license to carry a firearm, including the District's Coordinator of Safety and Security and contracted school security personnel, to carry a concealed firearm on school district premises and in school zones. Permission must be in writing from the Superintendent and tailored to the specific safety concern, and shall only extend to the period when engaging in the actual discharge of the duties for which permission was granted. The Superintendent shall notify the Board within 24 hours of having exercised authority under this Paragraph. Either the Superintendent or Board (through Board action) may revoke the permission granted at any time.
- D. Based on a determination of a bona fide safety or instructional reason, the Superintendent may recommend and the Board (through Board action) may grant permission for the lawful carrying of a firearm by other person(s) as permitted under the GFSZA and State laws and rules.
- E. The Superintendent shall establish regulations for implementation of this policy that ensure that persons authorized under Paragraphs IV. C or D of this Policy to carry a firearm are licensed to carry a firearm.
- F. Any person who possesses a firearm on LCPS premises or in a LCPS school zone in violation of this policy shall be referred to the appropriate law enforcement authorities for prosecution.
- G. Students who possess a firearm, weapon or destructive device on campus are subject to penalties imposed under School Board Policy JICF and Regulation JICF-R, Violent, Gang and/or Gang-like Activities, and shall be referred to the appropriate law enforcement authorities for prosecution.
- H. Whether or not a person is found to have engaged in the unlawful carrying of a deadly weapon on school premises, any person found to have violated School Board Policy EBCF shall be subject to appropriate consequences, including but not limited to adverse employment action, revocation of volunteer privileges, revocation of building use privileges, and student discipline.

V. REVIEW PROCESS

This policy shall be reviewed on an ongoing basis in accordance with the Board of Education policy review process.



Board of Education, President

May 16, 2017

Date Approved

History: New Policy Reviewed by Counsel, 05.16.17

Legal Ref: NMAC 6.60.9.9; § 30-7-2.1 NMSA 1978; § 22-5-4.7 NMSA 1978; Gun Free Schools Act, 18 USC § 921;