

Making Students Safe Through Advanced Technology: Our Experience

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and

Las Cruces Public Schools

Board Member-*Teresa Tenorio*

Superintendent-*Ignacio Ruiz*

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Introduction

- ❑ Student success requires a safe learning environment. As districts strive to make schools safer through advanced technology: School Attorney, LCPS Board Member and Administration will share successes and lessons from their headline undertaking to Install AI Weapon Detectors at all Middle and High Schools. Focusing on the board's role, they will cover fiscal/procurement, facilities, legal, policy, and personnel implications.

What We Set Out to Accomplish

- ❑ Superintendent Ruiz



Board Concerns

- ❑ Board Member Tenorio



Board Role

- ❑ Budgetary: Board reviews and approves the Annual School district budget (NMSA 1978, § 22-5-4(C))
- ❑ Property: Board acquires, leases and disposes of property (NMSA 1978, § 22-5-4(D))
- ❑ Contractual: Board contracts for the expenditure of money according to the provisions of the Procurement Code (NMSA 1978, § 22-5-4(J))
- ❑ Policy: Board develops educational policies for the school district (NMSA 1978, § 22-5-4(A))

Superintendent Role

- ❑ Safety: Superintendent is accountable for student safety (NMAC 6.29.1.9(C)(6))
- ❑ Personnel: Superintendent assigns all personnel of the school district (NMSA 1978, § 22-5-14(B)(3))
- ❑ Policy: Superintendent carries out the educational policies of the Board (NMSA 1978, § 22-5-14(B)(1))
- ❑ Oversight: Superintendent administers and supervises the school district (NMSA 1978, § 22-5-14(B)(2))

Procurement Implications

- ❑ School Districts must obtain the best value when spending public funds and provide strict accountability to all stakeholders.
- ❑ Statutory Thresholds:
 - ❑ Request for sealed bid is required when purchasing tangible personal property, construction, or nonprofessional services costing more than \$60,000. NMSA 1978, § 13-1-125(A).
 - ❑ Request for proposal is required when purchasing professional services costing more than \$60,000. See NMSA 1978, § 13-1-125(B).

What We Learned

- Funding
- Procurement
- Timing
- Stakeholder Awareness and Buy-In



Fourth Amendment Search Implications

- ❑ Under the Fourth Amendment to the United States Constitution, students have a right to be free from unreasonable searches.
- ❑ Individualized searches of students require reasonable suspicion.
- ❑ Courts have distinguished between individualized searches of specific students and generalized administrative searches applicable to all students when it comes to security measures such as metal detectors.
- ❑ Administrative searches will be upheld when the intrusion involved is no greater than necessary to satisfy the governmental interest underlying the need for the search, which would be absence of weapons in the instance of metal detectors. See *Vernonia School District 47J v. Acton*, 515 U.S. 646 (1995).

Search and Seizure under State Law

- ❑ School property assigned to a student and a student's person or property while under the authority of a public school are subject to search, and items found are subject to seizure, in accordance with the following requirements:
 - ❑ Notice of search policy.
 - ❑ Who may search.
 - ❑ Conduct of searches and witnesses.
 - ❑ Seizure of items.
 - ❑ Notification of law enforcement authorities.
- ❑ See 6.11.2.10 NMAC.

Notice of Search Policy

- ❑ “Students shall be given reasonable notice, through distribution of written policies or otherwise, of each school's policy on searches at the beginning of each school year or upon admission for students entering during the school year.” 6.11.2.10(B)(1) NMAC.

When a Search is Permissible

- ❑ “Unless local school board policy provides otherwise, an authorized person may conduct a search when the authorized person has a reasonable suspicion that a crime or other breach of disciplinary rules is occurring or has occurred. An administrative authority may direct or conduct a search under the same conditions and also when the administrative authority has reasonable cause to believe that a search is necessary to help maintain school discipline.”
6.11.2.10(B)(3) NMAC.

Seizure of Items

- ❑ “Illegal items, legal items which threaten the safety or security of others and items which are used to disrupt or interfere with the educational process may be seized by authorized persons. Seized items shall be released to appropriate authorities or a student's parent or returned to the student when and if the administrative authority deems appropriate.” 6.11.2.10(B)(5) NMAC.

What We Learned

- ❑ Timing Issues Related to Notice
- ❑ Policy Revisions to allow for Administrative Searches

Personnel Implications



Who May Search

- ❑ “Certified school personnel, school security personnel and school bus drivers are ‘authorized persons’ to conduct searches when a search is permissible as set forth in Subsection B of 6.11.2.10 NMAC. An authorized person who is conducting a search may request the assistance of one or more people, who upon consent become authorized to search for the purpose of that search only.” 6.11.2.10(B)(2) NMAC.

Conduct of Searches and Witnesses

- ❑ “Physical searches of a student's person may be conducted only by an authorized person of the same sex as the student and, except when circumstances render it impossible, may be conducted only in the presence of another authorized person of the same sex. The extent of the search must be reasonably related to the infraction, and the search shall not be excessively intrusive in light of the student's age and sex, and the nature of the infraction.”
6.11.2.10(B)(4)(c) NMAC.

Collective Bargaining Implications

- ❑ Under the New Mexico Public Employee Bargaining Act (PEBA):
 - ❑ Public employers and unions must negotiate in good faith over mandatory subjects of bargaining such as wages; hours and all other terms and conditions of employment.
 - ❑ It is considered a *per se* violation, for an employer to unilaterally change the terms and conditions of employment.

What We Learned

- ❑ Negotiate a MOA with the Union
- ❑ Ensure sufficient staff
- ❑ Ensure staff adequately trained



What We Accomplished

- Parents/Students/Employee/Community Relations
- Board Support
- Adaptations to Facilities
- Logistics

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The information in this presentation was prepared by Walsh Gallegos Kyle Robinson & Roalson P.C. It is intended to be used as general information only and is not to be considered specific legal advice. If specific legal advice is sought, consult an attorney.



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