



**NEW MEXICO PUBLIC SCHOOLS  
INSURANCE AUTHORITY**  
Office of Executive Director

410 Old Taos Highway  
Santa Fe, New Mexico 87501  
1-800-548-3724 or 505 988-2736  
505 983-8670 (fax)

Sammy J. Quintana, Esq.  
Executive Director

Christy L. Edwards  
Deputy Director

August 23, 2017

- BOARD OF DIRECTORS**
- NM School Boards Association
  - NM Superintendents Association
  - NM State Board of Education
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  - NM Federation of Teachers
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Estancia Valley Classical Academy  
Attn: Roger X. Lenard, President  
132 West Impala Ct  
Moriarty, NM 87032

**Re: Notice of Critical Hazard – Armed Employee**

Mr. Lenard,

Please treat this as a **Notice of Critical Hazard** issued on behalf of the New Mexico Public Schools Insurance Authority (“NMPSIA”) to the Estancia Valley Classical Academy and the Estancia Valley Governing Council (“EVCA”) pursuant to NMAC 6.50.1.1 et seq. attached for your information. Specifically, please refer to the definition of “Critical Hazard” at NMAC 6.50.1.7K.

Observations:

1. EVCA may be in violation of 18 U.S.C.A. § 922 - Gun Free Zones Act (“GFSZA”) prohibiting any person from knowingly possessing a firearm that has moved in or otherwise affects interstate or foreign commerce at a place the individual knows, or has reasonable cause to believe, is a school zone.
2. EVCA may be in violation of New Mexico State Laws including not but limited to NMSA §30-7-2: Unlawful Carrying of a Deadly Weapon on School Premises.

It should be noted that EVCA has contacted Poms & Associates (via 2 letters from Mr. Roger Lenard – the last of which dated 1/5/2016) concerning their desire to have an armed school employee present during school hours and for the protection of staff and students. Based on these letters, Poms Associates Risk Managers met with Mr. Tim Thiery (School Director/Principal) on March 30, 2016 who reassured and agreed to providing the following policy information in writing:

1. EVCA has assured Poms & Associates that it is not currently the school's policy or practice to allow any of their employees to carry firearms onto this campus

during school hours or during special events (CONSIDERED COMPLETED BASED ON STATEMENT FROM MR. THIERY).

2. EVCA should seek a legal opinion addressing the current Federal and State laws regarding Firearms on School Premises, NM Concealed Carry Laws, Law Enforcement (reserve officer requirements) as well as requirements for NM Licensed Security Officers; and their application to your school or it's employees. (PLEASE SEND THIS TO POMS & ASSOCIATES)
3. If EVCA allows school employees to carry firearms during school hours, EVCA must create Standard Operation Procedures that would outline training and safety/security measures to be implemented. (PLEASE SEND THIS DRAFT TO POMS & ASSOCIATES)

It should be noted that neither Poms & Associates nor the New Mexico Public School Insurance Authority has received the above-requested information. This meeting between Poms and Mr. Thiery was documented/memorialized via email sent on 3/30/16.

During the month of October 2016, Poms & Associates Risk Managers became aware of posted signage on the EVCA campus warning the public that EVCA school staff was armed. Risk Managers subsequently contacted Mr. Thiery about the signage who immediately referred them to Mr. Lenard.

Upon contacting Mr. Lenard, he advised that he had a full-time school employee in the position of security guard and was a retired APD officer with a Law Enforcement Concealed Carry license. When asked about the information requested in March 2016, Mr. Lenard stated that he would get Poms & Associates any information requested.

It should be noted that as of this date, Poms & Associates or the New Mexico Public School Insurance Authority still has not received the above-requested information.

Through further review of EVCA Governing Board Meeting Minutes (archived on the EVCA website), it appears that this school has had the Armed Security Staff in place since September 2016 (as documented via ECVA meeting minutes dated 9/21/16: VII-B and 10/25/16: X-B) and is continuing the practice without a Board Resolution or Policy/Standard Operation Procedures to govern this practice and safeguard your school from liability.

Therefore, under these circumstances, we deem that a risk-related exposure, hazardous condition, or other circumstance exists (or may exist) at EVCA and accordingly we are issuing a Notice of Critical Hazard.

Recommendations:

Provide NMPSIA (New Mexico Public Schools Insurance Authority) with the following:

1. Current EVCA Policy and Procedures for the armed security position; including employee qualifications, all duties and responsibilities of this employee as well as annual training (security and firearm) and re-certification requirements.
2. Copies of all current training and firearm certifications from the employee currently employed in this position.
3. Letters from any/all law enforcement agency leaders within the city, county and state jurisdiction where this campus resides, endorsing the arming of a school employee.
4. Letter from the New Mexico Public Education Department endorsing the arming of a school employee.

Within ten (10) days (September 13, 2017), EVCA must provide a satisfactory response to this Critical Hazard Notice.

Failure to provide a satisfactory response will result in further action pursuant to NMAC regulations including a possible Notice of "Imminent Hazard" as defined in the NMAC 6.50.1.7AA; to include the possibility of show cause hearing.

Sincerely,

Mr. Sammy Quintana  
Executive Director NMPSIA (New Public Schools Insurance Authority)

CC. Ms. Katie Poulos, PED, Charter School Director ✓  
Governing Council Members