



## Model Policy for a Tobacco-free Environment in Minnesota's K-12 Schools

The use or promotion of tobacco products on school grounds and at off-campus school-sponsored events is detrimental to the health and safety of students, staff, and visitors. Under federal law, smoking is prohibited in any kindergarten, elementary or secondary school or library serving children under the age of 18 years if federal funds are used in the school. *20 U.S.C. § 6083(a)*. Furthermore, Minnesota prohibits smoking, chewing, or otherwise ingesting tobacco or tobacco products in public K-12 schools, including all school facilities, whether owned, rented or leased, and in all vehicles that a school district owns, leases, rents, contracts for or controls. *Minn. Stat. § 144.4165*. However, neither state nor federal law covers outdoor school grounds.

In order to promote a tobacco-free environment in primary and secondary schools throughout Minnesota, the Public Health Law Center (“The Center”) and the Start Noticing Coalition recommend that school districts adopt a comprehensive policy that includes the following key components:

- ✓ Provides a definition of tobacco products to include current and future tobacco products.
- ✓ Prohibits the following items on campus (inside or outside) and at off-campus, school-sponsored events:
  - tobacco products and tobacco-related devices,
  - imitation tobacco products,
  - lighters, and
  - electronic cigarettes.
- ✓ Prohibits accepting any donations or curriculum from any tobacco-related industry.
- ✓ Prohibits any promotion of tobacco products.

The Center has created two documents to assist school districts in this effort: Model Policy for a Tobacco-free Environment in Minnesota's K-12 Schools and Model Policy for a Tobacco-free Environment in Minnesota's K-12 Schools Q & A, a detailed analysis in question/answer format which explains the reasoning behind the policy language. As with all policy drafting, this model is only to be used as guide. Each school district should consider modifications that reflect local needs and situations. You should review your policy with a legal technical assistance provider to ensure internal consistency, especially if you change terms or delete provisions. For more information about policy drafting, please refer to our website, [www.publichealthlawcenter.org](http://www.publichealthlawcenter.org) and our Policy Drafting Checklists. The Center also offers trainings to certain local communities on drafting effective policies, and may be able to review the draft of your district's Tobacco-free Environment policy. Please check our website at [www.publichealthlawcenter.org](http://www.publichealthlawcenter.org) for the latest version of the model policy. To request assistance or provide suggestions, e-mail [publichealthlaw@wmitchell.edu](mailto:publichealthlaw@wmitchell.edu).



## MODEL K-12 TOBACCO-FREE ENVIRONMENT POLICY LANGUAGE

### I. Findings

- a. Tobacco use is the single most preventable cause of death in the United States.<sup>1</sup>
- b. The use of tobacco products by the nation's children is a pediatric disease of considerable proportions that results in new generations of tobacco-dependent children and adults.<sup>2</sup>
- c. In Minnesota, smoking causes 5,500 deaths annually, and costs nearly \$2 billion in health care costs.<sup>3</sup>
- d. Children are exposed to substantial and unavoidable tobacco advertising that leads to favorable beliefs about tobacco use, plays a role in leading young people to overestimate the prevalence of tobacco use, and increases the number of young people who begin to use tobacco.<sup>4</sup>
- e. Electronic cigarettes can increase nicotine addiction among young people and may lead children to try other tobacco products that are known to cause disease and lead to premature death.<sup>5</sup>
- f. Imitation tobacco products may lead children to use tobacco by desensitizing them to the dangers of tobacco and advancing the false idea of tobacco-use as socially acceptable.<sup>6</sup>
- g. Evidence has shown anti-tobacco use campaigns sponsored by the tobacco industry do not prevent youth from using tobacco products, and may encourage youth to smoke and create positive associations with the tobacco industry.<sup>7</sup>

### II. Purpose

**A comprehensive 100% tobacco-free policy designed to ensure a safe learning and work environment.**

- a. The [DISTRICT NAME] Board of Education recognizes that the use of tobacco products is a health, safety, and environmental hazard for students, staff, visitors, and school facilities. The board is acutely aware of the serious health risks associated with the use of tobacco products, both to users and non-users. The board believes that the use or promotion of tobacco products on school grounds and at off-campus school-sponsored events is detrimental to the health and safety of students, staff, and visitors.
- b. The Board also believes accepting tobacco industry gifts or materials will send an inconsistent message to students, staff, and visitors.
- c. The Board acknowledges that adult staff and visitors serve as role models for students. The Board embraces its obligation to promote positive role models in schools, and to provide an environment for learning and working that is safe, healthy, and free from

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unwanted smoke and tobacco use for the students, staff, and visitors. Therefore, the Board adopts the following tobacco-free policy.

### III. Definitions

- a. **“Administrator”** means any person who has disciplinary and managerial authority to enforce school policies and penalties in [DISTRICT NAME], including but not limited to principals, vice-principals, or office personnel.
- b. **“Any time”** means during normal school and non-school hours: 24 hours a day, seven days a week, 365 days a year.
- c. **“Electronic cigarette”** means any oral device that provides a vapor of liquid nicotine, lobelia, and/or other substance, and the use or inhalation of which simulates smoking. The term shall include any such devices, whether they are manufactured, distributed, marketed or sold as e-cigarettes, e-cigars, e-pipes, or under any other product name or descriptor.
- d. **“Electronic cigarette industry”** means manufacturers, distributors or wholesalers of e-cigarettes. This includes parent companies and subsidiaries.
- e. **“Imitation tobacco product”** means any non-tobacco product designed to resemble a tobacco product including any edible or non-edible, non-tobacco product designed to resemble a tobacco product that is intended to be used by children as a toy. Examples of imitation tobacco products include but are not limited to: candy or chocolate cigarettes, bubble gum cigars, shredded bubble gum resembling chewing tobacco, shredded beef jerky in containers resembling snuff tins, plastic cigars, and puff cigarettes.
- f. **“Lighter”** means a mechanical or electrical device typically used for lighting tobacco products.
- g. **“Off-campus, school-sponsored event”** means any event sponsored by the school or school district that is not on school property, including but not limited to, sporting events, day camps, field trips, entertainment seminars, dances or theatrical productions.
- i. **“Parent/Guardian”** means any person that has legal guardian status over a student enrolled in [DISTRICT NAME].
- j. **“School”** means any public nursery, day care center, child care facility, Head Start program, kindergarten, elementary, secondary school, alternative learning center or adult education center operated under the control of [DISTRICT NAME].
- k. **“School property”** means all facilities and property, including land, whether owned, rented, or leased by [DISTRICT NAME], and all vehicles owned, leased, rented, contracted for, or controlled by [DISTRICT NAME] used for transporting students, staff, or visitors.
- l. **“Signage”** means signs declaring that all [DISTRICT NAME] school property is tobacco-free.
- m. **“Smoking”** means inhaling, exhaling, burning or carrying any lighted or heated cigar, cigarette or any other lighted or heated tobacco or plant product intended for inhalation, in any manner or in any form. "Smoking" also includes the use of an e-cigarette that

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creates a vapor, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking.

- n. **“Staff”** means any person employed by [DISTRICT NAME] as full or part-time, or any position contracted for or otherwise employed, with direct or indirect monetary wages or profits paid by [DISTRICT NAME] or anyone working on a volunteer basis. This term includes, but is not limited to: faculty, service personnel, volunteers, chaperones, and others working for the [DISTRICT NAME].
- o. **“Student”** means any person enrolled in [DISTRICT NAME]’s educational system.
- p. **“Tobacco industry”** means manufacturers, distributors or wholesalers of tobacco products. This includes parent companies and subsidiaries.
- q. **“Tobacco industry brand”** means any corporate name, trademark, logo, symbol, motto, selling message, recognizable pattern of colors, or any other indication of product identification identical or similar to those used for any brand of tobacco product, company, or manufacturer of tobacco products.
- r. **“Tobacco product”** means any products containing, made, or derived from tobacco that are intended for human consumption, whether chewed, smoked, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, or any component, part, or accessory of a tobacco product, including but not limited to, cigarettes; cigars; little cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff; snuff flour; cavendish; plug and twist tobacco; fine-cut and other chewing tobacco; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco, and other kinds and forms of tobacco. Tobacco products exclude any tobacco product that has been approved by the U.S. Food and Drug Administration for sale as a tobacco cessation product, as a tobacco dependence product, or for other medical purposes, and is being marketed and sold solely for such an approved purpose.
- s. **“Tobacco products shop”** means a retail establishment with an entrance door opening directly to the outside that derives more than 90 percent of its gross revenue from the sale of loose tobacco, plants or herbs intended for inhalation, cigars, cigarettes, pipes, or other smoking devices for burning tobacco and related smoking accessories in which the sale of other products is merely incidental. This does not include a tobacco department or section of any individual business establishment with any type of liquor, food, or restaurant license.
- t. **“Tobacco-related devices”** means ashtrays, cigarette papers or pipes for smoking or electronic cigarettes or any components, parts, or accessories of electronic cigarettes, including cartridges.
- u. **“Tobacco-related devices industry”** means manufacturers, distributors or wholesalers of tobacco-related devices. This includes parent companies and subsidiaries.

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- v. **“Visitor”** means any person subject to this policy that is not a student, staff, or administrator as defined above.

#### IV. General Statement of Policy

- a. It shall be a violation of this policy for any student of [DISTRICT NAME] to possess, use, consume, display or sell any tobacco products, tobacco-related devices, imitation tobacco products, lighters, or electronic cigarettes at any time on school property or at off-campus, school-sponsored events.
- b. It shall be a violation of this policy for any staff, administrator, or visitor of [DISTRICT NAME] to use, consume, display or sell any tobacco products, tobacco-related devices, imitation tobacco products, lighters, or electronic cigarettes at any time on school property.
- c. It shall be a violation of the policy for any staff, administrator, or visitor of [DISTRICT NAME] to use, consume, display, or sell any tobacco products, tobacco-related devices, imitation tobacco products, lighters, or electronic cigarettes at any off-campus, school-sponsored events.
- d. It shall be a violation of this policy for [DISTRICT NAME] to solicit or accept any contributions, gifts, money, curricula, or materials from the electronic cigarette industry, tobacco industry, tobacco-related device industry or from any tobacco products shop. This includes, but is not limited to, donations, monies for sponsorship, advertising, promotions, loans, or support for equipment, uniforms, and sports and/or training facilities. It shall also be a violation of this policy to participate in any type of service funded by any of the industries listed above.
- e. It shall be a violation of this policy for any person to promote, or for [DISTRICT NAME] to promote or allow promotion of tobacco products, tobacco-related devices, or e-cigarettes on the school property or at off-campus, school-sponsored events. This includes promotion of these products via gear, bags, clothing, any personal articles, signs, structures, vehicles, flyers or any other materials.
- f. [DISTRICT NAME] shall act to enforce this policy and to take appropriate action against any student, staff, administrator, or visitor who is found to have violated this policy.
- g. **OPTIONAL:** Instruction to discourage the use of tobacco shall be included in the education provided for all students. Staff responsible for teaching tobacco-use prevention shall have adequate training and participate in ongoing professional development activities to effectively deliver the education program as planned.

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## V. Exceptions

- a. It shall not be a violation of this policy for an adult Native American to use tobacco as part of a traditional Native American spiritual or cultural ceremony. A Native American is a person who is a member of a federally recognized Indian tribe. *Minn. Stat. § 144.4165*
- b. It shall not be a violation of this policy for tobacco products, tobacco-related devices, imitation tobacco products, lighters, or electronic cigarettes to be included in instructional or work-related activities in [DISTRICT NAME] school buildings if the activity is conducted by a staff member or an approved visitor and the activity does not include smoking, chewing, or otherwise ingesting the product.
- c. It shall not be a violation of this policy to use a product that has been approved by the U.S. Food and Drug Administration for sale as a tobacco cessation product, as a tobacco dependence product, or for other medical purposes, and is being marketed and sold solely for such an approved purpose.

## VI. Opportunities for Cessation Programs

- a. Administrators shall consult with the county health department or other appropriate health and allied community-based organizations to provide students, staff, and administrators with information and access to support systems, programs, and services to encourage them to abstain from the use of tobacco products.
- b. Administrators shall identify and offer programs and services for staff that use tobacco products to support them in complying with this policy.

## VII. Enforcement

The success of this policy will depend upon the thoughtfulness, consideration, and cooperation of both tobacco-users and non-users. All individuals on school premises including students, staff, administrators, and visitors share in the responsibility for adhering to and enforcing this policy.

- a. Students
  - i. The first violation shall result in any or all of the following: confiscation of tobacco products, notification of parents, meeting and assessment with substance abuse educator or designated staff, participation in tobacco education program, and offering student information about available cessation programs.
  - ii. The second violation shall result in confiscation of tobacco products, notification of parents, and offering student information about available cessation programs, as well as any or all of the following: meeting and assessment with substance

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- abuse educator or designated staff with parents or mandatory participation in tobacco education program.
- iii. The third violation shall result in confiscation of tobacco products, notification of parents, and offering student information about available cessation programs, as well as one or more of the following: notification of police, meeting and assessment with substance abuse educator or designated staff, community service or suspension.
- b. Staff
    - i. The first violation shall result in a verbal warning to the staff member, and an offer of a referral to cessation services.
    - ii. The second violation shall result in a written warning to the staff member with a copy placed in his or her district personnel file, and an offer of referral to cessation services.
    - iii. The third violation shall be considered insubordination and shall be dealt with accordingly based on established policies and procedures for suspension and/or dismissal of staff.
  - c. Visitors
    - i. Visitors who are observed violating this policy shall be asked to comply with [DISTRICT NAME]'s tobacco-free policy. If the visitor fails to comply with the request, his or her violation of the policy may be referred to the building principal or other school district supervisory personnel available. The supervisor shall make a decision on further action that may include a directive to leave school property including forfeiture of any fee charged for admission to a school-sponsored event. Repeated violations may result in a recommendation to the superintendent to prohibit the individual from entering school district property for a specified period of time. If he or she refuses to leave, the police may be called.

## VIII. Dissemination of Policy

- a. Appropriate signage shall be posted throughout the district at building entrances and other highly visible locations on all school buildings, building entrances, vehicles, vehicular entrances to school grounds, and all indoor and outdoor athletic facilities indicating that [DISTRICT NAME] requires a tobacco-free environment.
- b. The school shall notify students and parents/guardians of this policy through student handbooks.
- c. The district shall provide notice of this policy through staff handbooks.
- d. The school or district shall make tobacco-free reminder announcements at school events at appropriate intervals throughout the events, when possible.

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**IX. Program Evaluation**

- a. The tobacco-free policy shall be assessed by the school district or its designee at regular intervals to determine whether policies, policy enforcement, communication, education, staff training, and cessation programs are effective. Policies and programs shall be updated and revised accordingly.

**X. Effective Date**

- a. This policy shall take effect in full on [INSERT DATE].

**STATUTES ON TOBACCO USE IN SCHOOLS**

20 U.S.C. § 6083(a)

Minn. Stat. § 144.4165.

Minn. Stat. § 120A.05, subds. 9, 11, 13.

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<sup>1</sup> CENTERS FOR DISEASE CONTROL AND PREVENTION, TOBACCO CONTROL STATE HIGHLIGHTS 2010,1-2 (2010), available at [http://www.cdc.gov/tobacco/data\\_statistics/state\\_data/state\\_highlights/2010/pdfs/highlights2010.pdf](http://www.cdc.gov/tobacco/data_statistics/state_data/state_highlights/2010/pdfs/highlights2010.pdf).

<sup>2</sup> Substance Abuse and Mental Health Services Administration (SAMHSA), Results from the 2008 National Survey on Drug Use and Health: Detailed Tables (2008), available at <http://www.oas.samhsa.gov/NSDUH/2K8NSDUH/tabs/Sect4peTabs10to11.pdf>.

<sup>3</sup> Centers for Disease Control and Prevention, *State-Specific Smoking-Attributable Mortality and Years of Potential Life Lost – United States, 2000-2004*, 58 MORBIDITY AND MORTALITY WKLY. REP 29 (2009), available at <http://www.cdc.gov/mmwr/pdf/wk/mm5802.pdf>; CENTERS FOR DISEASE CONTROL AND PREVENTION SUSTAINING STATE PROGRAMS FOR TOBACCO CONTROL, DATA HIGHLIGHTS, 2006 (2006), available at [http://www.cdc.gov/tobacco/data\\_statistics/state\\_data/data\\_highlights/2006/sections/index.htm](http://www.cdc.gov/tobacco/data_statistics/state_data/data_highlights/2006/sections/index.htm).

<sup>4</sup> Joseph R. DiFranza et al., *Tobacco Promotion and the Initiation of Tobacco Use: Assessing the Evidence for Causality*, 117 PEDIATRICS e1237 (2006) available at <http://pediatrics.aappublications.org/cgi/reprint/117/6/e1237>.

<sup>5</sup> U.S. FOOD AND DRUG ADMINISTRATION, FDA WARNS OF HEALTH RISKS POSED BY E-CIGARETTES (2009), available at <http://www.fda.gov/ForConsumers/ConsumerUpdates/ucm173401.htm>.

<sup>6</sup> Jonathan D. Klein & Steve St. Clair, *Do Candy Cigarettes Encourage Young People to Smoke?*, 321 BRIT. MED. J. 362 (2000), available at <http://www.bmj.com/cgi/content/full/321/7257/362>.

<sup>7</sup> National Cancer Institute, Tobacco Control Monograph No. 19: The Role of the Media in Promoting and Reducing Tobacco Use (2008), available at [http://cancercontrol.cancer.gov/tcrb/monographs/19/m19\\_complete.pdf](http://cancercontrol.cancer.gov/tcrb/monographs/19/m19_complete.pdf); AMERICAN LEGACY FOUNDATION, FIRST LOOK REPORT 9: GETTING TO THE TRUTH: ASSESSING YOUTHS' REACTIONS TO THE TRUTH AND 'THINK. DON'T SMOKE' TOBACCO COUNTERMARKETING CAMPAIGNS (2002), available at [http://www.legacyforhealth.org/PDFPublications/fl\\_9.pdf](http://www.legacyforhealth.org/PDFPublications/fl_9.pdf).

[DISTRICT NAME]'s Tobacco-Free Policy