

RESTRICTIONS ON TOBACCO, NICOTINE, AND VAPOR PRODUCTS

Policy
[831-443.3/522.2/831](#)

Waukegan Community School
District

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(This sample policy is structured in separate sections that independently address (1) students; (2) employees; (3) certain contracted service providers and authorized agents of the school district; and (4) visitors and other persons who are not otherwise addressed. As such, the sample could be either adopted as a single policy with multiple sections or divided into three separate policies, coding the student provisions under topic 443.3, the employee and contractor/agent provisions under topic 522.2, and the remainder under topic 831. The restrictions in this sample go beyond the minimum legal mandates for prohibiting smoking and other tobacco use on school premises and beyond the laws that already prohibit the possession of certain products by minors.)

District Students

Use and Possession Prohibited: Students are prohibited from any type of smoking and from possessing, distributing, or using tobacco products, nicotine products, non-medical vapor products, and any related items intended to facilitate the ingestion of such substances. These prohibitions apply (1) at all times in all District buildings, in all District vehicles, and on all District premises; (2) while students are attending or participating in a District-sponsored event at any location; and (3) at any other time that a student is under the supervision of a school district authority.

Examples of prohibited items and products include the following: *(Editor's Note: The inclusion of these clarifying examples is optional. If included, the examples may be modified to address specific concerns.)*

1. Cigarettes, chewing tobacco, e-cigarettes, nicotine vaporizers, and similar products.
2. Products that use heat, electricity, or a similar mechanism to create smoke or a vapor that is intended to be ingested, and which may or may not contain nicotine.
3. The components, parts, or accessories of any product or device intended to facilitate the ingestion of tobacco, nicotine, or any non-medicinal ingestible vapor (e.g., rolling paper, pipes, or cartridges or similar refillable/replaceable elements).

Exceptions: Non-tobacco, non-nicotine devices or products that have a medical purpose and that are possessed or used by a student under the advice, supervision, or prescription of a medical professional are not prohibited by this policy but are subject to rules related to medication (to the extent applicable) and to any administrative rules or directives regarding appropriate times and locations for use.

District Employees

Prohibited Use: District employees are prohibited from using tobacco products, nicotine products, and non-medical vapor products (1) in all District buildings, in all District vehicles (owned, leased, or contracted), and on all District premises; and (2) in any non-District location when the employee is acting in the scope of his/her employment and either students are

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present or the use of the product at the location is separately prohibited by law or by the owner of the property.

Restrictions on Possession: To the extent a District employee possesses any otherwise-lawful tobacco, nicotine, or non-medical vapor product on District property or when acting in the scope of their employment, the product shall be stored in the employee's personal vehicle or remain contained at all times within a separate personal item that effectively conceals the product and that serves as a reasonably-effective deterrent to student access.

Exceptions:

1. FDA-approved smoking cessation products that may contain nicotine (e.g., certain chewing gums, lozenges, or patches) that do not have the appearance of a tobacco product, e-cigarette, or nicotine vaporizer are not prohibited by this policy provided that the employee (1) follows the applicable directions for use of the product; (2) observes any District directives relating to the manner of use of the product; and (3) stores the product in a manner that serves as a reasonably-effective deterrent to student access.
2. Non-tobacco, non-nicotine devices or products that have a medical purpose and that are possessed or used under the advice, supervision, or prescription of a medical professional are not prohibited by this policy but may be subject to other policies, rules, or administrative directives regarding use in a school setting.
3. ~~Insert if desired: "Upon the written request of a District employee, the Human Resources Director, District Administrator or his/her administrative level designee, may grant other specific permissions regarding any non-tobacco product that is otherwise prohibited or restricted under this policy if, in the judgment of the administrator, the request will not jeopardize the health of any person and approval would accommodate an exceptional individualized need or fulfill a compelling educational purpose."~~

Contracted Service Providers and Authorized Agents of the District

Any contracted service provider, employee of a contracted service provider, or authorized agent of the District (e.g., an authorized District volunteer) who provides services to the District on District premises, in District vehicles, or when students are present in other settings is subject to the same prohibitions, restrictions, and exceptions regarding tobacco, nicotine, and vapor products as apply to District employees. To the extent relevant to the application of those policies and rules, any such person and the District shall consider whether the service provider or agent is (or was) acting within the scope of the applicable contractor or agency relationship.

Visitors and Other Individuals

~~⁴This is optional language. I do not see similar language in your current policy, wanted to let you make the choice regarding including or deleting this.~~

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Prohibited Use: Although additional restrictions apply to students, District employees, and other designated contractors and agents of the District, no person may smoke or otherwise use any tobacco product, any type of e-cigarette, any nicotine product that is not an FDA-approved smoking cessation product, or any vapor product that contains (or may sometimes contain) nicotine while the individual is on any premises owned, rented/leased, or controlled by the District or in any vehicle that is owned, rented/leased, or contracted by the District.

Exceptions:

1. This policy is not intended to prohibit the use of a non-nicotine, vapor-producing device that is designed and appropriately used for a medical purpose.

2. ~~A person who is renting District-owned property for a noneducational purpose, excluding any indoor or other enclosed space where educational services are normally provided, may submit a written request asking the District to approve an exception to the prohibitions established by this policy. (Choose either: "At its sole discretion, the School Board" or "On behalf of the School Board, the District Administrator or his/her administrative level designee") may approve or deny an otherwise lawful exception for such a renter. (Editor's Note: The potential application of this exception is limited primarily to outdoor facilities because state and federal law would prohibit any such exception with respect to smoking in any enclosed school building/facility where educational services are provided. If the current board does not intend to entertain granting any such exceptions, the exception could be deleted from the policy, or the sample could be modified to expressly direct the administration to deny all such requests on behalf of the board.)~~²

Notice and Enforcement

~~*Insert if desired: "The administration shall make efforts to inform the public of the conduct prohibited by this policy, including by posting signs and by providing other appropriate information (e.g., in verbal, written, and/or electronic formats)."*~~ (Editor's Note: With respect to smoking, such notice is required under section 101.123(2m)(c) of the state statutes, but the mandate does not need to appear in a board policy as long as the district is in compliance.)

Administrators and other facility/event/activity supervisors shall enforce District policies and rules prohibiting the use or possession of tobacco products, nicotine products, vapor products, and related products/devices by, for example: (1) directing an individual to cease prohibited conduct or to remove themselves from the premises; (2) applying disciplinary and other consequences; and/or (3) referring a situation (including refusals to cooperate) to law enforcement. **(Editor's Note: If a district separates this single policy into multiple policies (as described in the introductory note, above), the district may wish to repeat this sentence about enforcement in each such policy.)**

² The language in yellow would allow your district to create exceptions to the tobacco prohibition for third-party users of outdoor school facilities on a case-by-case basis. You have nothing similar in your current policy and you might decide to delete the entire paragraph.

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Legal References:

Wisconsin Statutes

- [Section 101.123](#) [smoking prohibited in certain enclosed places; notice and enforcement required]
[Section 111.321](#) [prohibited employment discrimination on the basis of the use of lawful products off the employer's premises during nonworking hours]
[Section 120.12\(20\)](#) [school board duty to prohibit tobacco use on school premises]

Federal Laws

- [20 U.S.C. §§7971-7974](#) [smoking prohibited in certain indoor facilities providing education services to children; see also [20 U.S.C. §§6081-6084](#)]

Cross References:

- [447.3. Student Suspensions](#)
[447.5. Discipline of Students with Disabilities](#)
WASB PRG 831 Sample Policy 3

Adoption Date: [12/13/82](#)

Revised: [5/14/84](#)

[10/13/87](#)

[4/22/91](#)

[5/11/92](#)

[March 1994](#)

[March 2002](#)

[September 2018](#)

[December 2023](#)

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