

DRUG, ALCOHOL, AND TOBACCO/ NICOTINE-FREE SCHOOLS

See the following policies in reference to Tobacco, Alcohol and Drug Free Schools

Drug Free Workplace	- GBEC-
Non Medical Use or	
Abuse of Drugs or Alcohol	- GBECA
Tobacco Use by Staff Members	- GBED-
Administering Medicines to Students	JLCD
Tobacco Use by Students	- JICG-
Drug and Alcohol Use by Students	- JICH
Tobacco Use at Public Functions	- KFA-

The use, possession and distribution of commercial tobacco and nicotine products, electronic delivery devices, alcoholic beverages, mood-altering substances and illicit drugs is prohibited on school property and at off-campus school-sponsored events by all persons, including but not limited to following locations:

- School grounds.
- School buildings.
- School parking lots.
- School playing fields.
- School buses and other District vehicles.
- Off-campus school-sponsored events.

The foregoing products or activities are prohibited at all times, including non-school hours. The meaning of the terms included herein shall be as provided in New Mexico Administrative Code 6.12.4.1 through 6.12.4.9.

Communication of Policy

The District shall post conspicuous notices on all school property prohibiting the use, possession and distribution of commercial tobacco and nicotine products, electronic delivery devices, alcoholic beverages, mood-altering substances and illicit drugs, in school buildings, on school property, and by students at off-campus, school-sponsored events away from school grounds. The District shall post appropriate signage on school premises prohibiting the use, possession and distribution of commercial tobacco products, electronic delivery devices, on school property and by students at off-campus school-sponsored events in a manner and location that adequately notifies students, school personnel, and visitors, including at the entrance to school buildings and athletic events.

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The Superintendent shall develop and implement a procedure for effectively communicating this policy to students, their parents and families, school personnel, visitors on school property, and to local residents, groups, businesses and organizations served by the District. In addition to the notice requirements set forth above, such communication may include publishing information in student and employee handbooks, school district websites, and announcements at school-sponsored events, in a manner and location that adequately informs students, school personnel, and visitors of this policy.

Promotion of Products Prohibited

The promotion of tobacco or nicotine products, electronic delivery devices, alcoholic beverages, mood-altering substances or illicit drugs on the school property or at off-campus, school-sponsored events is prohibited. This includes promotion of these products via gear, technology accessories, bags, clothing, any personal articles, signs, structures, vehicles, flyers, or any other materials.

Consequences for Violation of Policy

For students who violate this policy, disciplinary penalties may be imposed in accordance with the District's student conduct and discipline policies and procedures. Notwithstanding the foregoing sentence, for an initial violation of the prohibition of the use or possession of tobacco or nicotine products, the district will, prior to imposing out-of-school disciplinary options, use progressive and supportive disciplinary action beginning with options to promote positive student outcomes such as tobacco education or referral to counseling, parent conferences, and school or community service. Thereafter, students may be subject to the normal range of disciplinary consequences for such conduct. Referrals to resources to help students overcome nicotine addictions shall be provided when developmentally appropriate. Parents or guardians shall be notified of all violations and actions taken by each school district.

For employees, disciplinary penalties for violations of this policy may be imposed in accordance with policies of the District regarding employee conduct and disciplinary actions. Without limiting the foregoing, the District will provide referrals to resources to help school personnel overcome nicotine addiction upon request and to school personnel who violate this policy.

Visitors or members of the public who violate this policy and fail to comply with a verbal warning shall be requested to leave the premises by school supervisory personnel in accord with laws on trespass. Law enforcement may be notified to assist if required.

The Superintendent may establish procedures necessary to implement this policy. All school employees shall abide by and are responsible for enforcement of this policy. A school employee who knows or in good faith suspects any student of using

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or abusing alcohol or drugs shall report such use or abuse to school officials. No school employee who in good faith reports any known or suspected use, possession or distribution of alcoholic beverages, mood-altering substances or illicit drugs shall be liable for any civil damages as a result of such report or efforts to enforce this policy.

The prohibitions in this policy do not apply to the lawful possession or use of a tobacco-cessation product approved by the United States Food and Drug Administration. It shall not be a violation of this policy for a person to possess or provide tobacco or lighters to any other person as part of an indigenous practice or a lawfully recognized religious, spiritual, or cultural ceremony or practice, or to use tobacco as part of an educational experience related to indigenous tobacco practices that has been approved by district administration.

Adopted: date of manual adoption

LEGAL REF.: 22-5-4.4. NMSA School employees: reporting drug and alcohol use; release from liability

24-16-3 NMSA *et seq.*, Dee Johnson Clean Air Act

6.12.4.8 NMAC

1994 Op. Att'y Gen. No. 94-03, 1994 N.M. AG LEXIS 4.

20 U.S.C. 6083 Pro-Children Act of 1994

(Environmental Tobacco Smoke)

34 C.F.R. Part 85 Drug Free Workplace Act

CROSS REF.: EEAEAA - Drug and Alcohol Testing of Transportation Employees

EEA-R – Student Transportation

GBEB - Staff Conduct

GBEC – Drug Free Workplace

GBECA – Non Medical Use or Abuse of Drugs or Alcohol

GBECB – Alcohol Use by Staff Members

GBGC – Employee Assistance

GBPD – Drug and Alcohol Testing of Employees

GCQF - Discipline, Suspension, Termination and Discharge of Professional Staff Members

GDQD - Discipline, Suspension, Termination and Discharge of Support Staff Members

JIC - Student Conduct

JICH – Drug and Alcohol Use by Students

JK - Student Discipline

JKD - Student Suspension/Expulsion

JLCD - Administering Medications to Students

KF - Community Use of School Facilities

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Policy Advisory Discussion

Effective November 7, 2023, the Public Education Department revised regulation 6.12.4 NMAC which prohibits various nicotine products, alcohol, and drugs on school property and requires school districts to address specific requirements in policy. Many of the changes appear to try to make clear that any nicotine, regardless of its delivery method, is prohibited on all school property (including vehicles and the sites of school sponsored events) at all times. Among the changes to the regulation are:

- new or changed definitions of prohibited products like “commercial tobacco product,” and E-cigarette and electronic nicotine-delivery system.”
- A requirement for progressive discipline (more on that below) and requirements to provide resources to help students and employees overcome nicotine addiction.
- A prohibition on the “promotion” of any of these products or illegal items.
- New requirements about the communication of these prohibitions including through signage, handbooks, websites, etc.

In the current NMSBA policy manual, policies implementing this regulation appear at least three times: in Section G for employees, Section J for students, and section K for visitors or members of the public. Much redundant language appears in those policies. In the interest of reducing the redundancy and confusion for districts and de-cluttering the policy manual, the Policy Service takes this opportunity to consolidate the Drug, Alcohol, and Tobacco/Nicotine Free Schools policies into one policy contained in Section A. The policies in Sections G, K, and J will be deleted. This change will also require changes to the “cross-referenced” policies shown at the end of various policies and some minor changes to other policies, as described below.

The new, consolidated Drug, Alcohol, and Tobacco/Nicotine Free Schools policy will be contained in A-0750 ADB/ADC. There are a few items that the Policy Service wants to call to your attention. The new regulation requires some level of progressive discipline for violations but it is not perfectly clear that progressive discipline only applies to students and whether it should apply to all violations of the policy or just the lower-level violations. The Policy Service has assumed in writing the new policy that progressive discipline only applies to student (as opposed to employee) violations and that it only applies to tobacco/nicotine violations and not, for example, selling fentanyl on school property. Therefore, the policy is written so that only “an initial violation of the prohibition of the use or possession of tobacco or nicotine products,” requires progressive discipline “prior to imposing out-of-school disciplinary options” and other policy violation do not. Districts should consult their lawyer with for advice regarding the reasonableness of that interpretation.

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As mentioned above, there is a new provision in the regulation that prohibits the “promotion” of these activities or products. The word “promotion” is not defined but the regulation states that promotion is prohibited, among other things, “via gear, technology accessories, bags, clothing, any personal articles, signs, structures, vehicles, flyers, or any other materials.” The word “promotion” implies advertising or marketing but, by using examples like “clothing” and “personal articles,” it appears that the regulation could prohibit a person (like a parent at a baseball game) from wearing clothes that depict a prohibited act or product (like a Budweiser shirt). The Policy Service has retained “promotion” as the term used in the policy, without attempting to define it. Districts may wish to consult with their attorney regarding the proper meaning of this provision.

Please note: The Policy Service has assumed that the expansive definition of “mood-altering substances,” which hasn’t changed, it not intended to prohibit the use, possession, or sale of caffeinated products or the use of legally-prescribed mood-altering medications by adults.

Policy Advisory:

- **PA 247:** (A-0750) ADB / ADC: This policy, which previously just referenced the various policy provisions applicable to drug, alcohol, and tobacco/nicotine free schools, now becomes the primary policy on that subject.
- (A-0761) ADB / ADC-R: This is a new regulation that primarily addresses signage and it is derived from the now deleted regulation at K 1761 KFAA-R.
- **PA 248:** (E-2011) EEA-R: This transportation regulation is amended slightly to add the full range of prohibited drug, alcohol, and nicotine products to the list of prohibited items on a school bus.
- **PA 249:** (G-0881) GBEBB-EA: This exhibit related to staff conduct with students is amended to add the word “nicotine” two times to the list of prohibited items.
- **PA 250:** (G-1100) GBED Tobacco Use by Staff Members/Smoking—**DELETED** in entirety.
- **PA 251:** (G-6100) GCQF: Discipline, Suspension, Termination and Discharge of Professional Staff Members. Changed only to add cross-reference to A-0750 ADB/ADC. **Please note** that if you change this policy, please provide Policy Service with the web address to find a link to the state-wide hotline for reporting incidents of racialized aggression so that change makes it into the new version of the policy.
- **PA 252:** (G-9300) GDQD: Discipline, Suspension, Termination and Discharge of Professional Staff Members. Changed only to add cross-reference to A-0750 ADB/ADC. **Please note** that if you change this policy, please provide Policy Service with the web address to find a link to the state-wide hotline for reporting incidents of racialized aggression so that change makes it into the new version of the policy.
- **PA 253:** (I-6631) IJOC-E School Volunteers: Added “nicotine” to the list in paragraph 13 regarding things not to possess or use.

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- **PA 254:** (J-2300) JIC Student Conduct: add in nicotine to list of prohibited substances and add A-0750 ADB/ADC to cross referenced policies.
- **PA 255:** (J-3000) JICG Tobacco Use By Students/Smoking—**DELETED** in entirety.
- **PA 256:** (J-4611) JK-R. Student Discipline. Added tobacco and nicotine to list of prohibited items.
- (J-4632) JK-EB. Student Discipline Exhibit. Added “and Nicotine” to Tobacco reference.
- **PA 257:** (J-5350) JLCD: Administering Medicine to students; Add cross-reference to A-0750 and delete cross references to JICG-Tobacco Use by Students
- **PA 258:** (K-1681) KF-EA Community Use of School Facilities—Site Use Agreement Exhibit; add nicotine to list of prohibited items.
- **PA 259:** (K 1700) KFA Public Conduct on School Property; add nicotine to list of prohibited items.
- **PA 260:** (K-1750) KFAA Tobacco Use/Smoking on School Property—**DELETED** in entirety.
- (K-1761) Regulation Tobacco use on school premises at public functions—**DELETED** in entirety.

To see the changes to the prior regulation:

https://webnew.ped.state.nm.us/wp-content/uploads/2023/09/6.12.4-NMAC_PreApproved-for-Web_RR-Tracked.pdf

To see the new regulation as currently existing:

<https://nmonesource.com/nmos/nmac/en/item/18063/index.do#!fragment/zoupio- Toc 187770580/BQCwhgziBcwMYgK4DsDWszIQewE4BUBTADwBdoAvbRABwEtsBaA fX2zgEYAOAdj4AYArF34BKADTJspQhACKiQrgCe0AORrxEQmFwIFS1Rq069IAMp5SAIVUALAKIAZBwDUAggDkAwg-GkwACNoUnZRUSA>

If you have any questions, or requests call Policy Services at (505) 469-0193 or e-mail Dan Castille, Policy Services Director at rdcpolicyservices@outlook.com.

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RELEVANT SUPPORT MATERIALS

NMSA 22-11-25.1

<https://nmonesource.com/nmos/nmsa/en/item/4368/index.do#!fragment/zoupio-Toc184744413/BQCwhgziBcwMYgK4DsDWszIQewE4BUBTADwBdoAvbRABwEtsBaAfX2zgEYAOAFgHYegigGYAlABpk2UoQgBFRIVwBPAAHI14iITC4ECpaoladekAGU8pAEKqASgFEAMg4BqAQQByAYQfjSYABG0KTsoqJAA>

NMAC 2.82.5.15 – 18

<https://nmonesource.com/nmos/nmac/en/item/18059/index.do#!fragment/zoupio-Toc185868085/BQCwhgziBcwMYgK4DsDWszIQewE4BUBTADwBdoAvbRABwEtsBaAfX2zgEYAOAVi4DYuABl4BKADTJspQhACKiQrgCe0AORrxEQmFwIFS1Rq069IAMp5SAIVUALAKIAZBwDUAggDkAwg-GkwACNoUnZRUSA>