

419 TOBACCO-FREE ENVIRONMENT; POSSESSION AND USE OF TOBACCO, TOBACCO-RELATED DEVICES, AND ELECTRONIC DELIVERY DEVICES; VAPING AWARENESS AND PREVENTION INSTRUCTION

I. PURPOSE

The purpose of this policy is to maintain a learning and working environment that is tobacco-free.

II. GENERAL STATEMENT OF POLICY

- A. A violation of this policy occurs when any student, teacher, administrator, other school personnel of the school district or person smokes or uses tobacco, tobacco-related devices, or carries or uses an activated electronic delivery device ~~electronic cigarettes~~ in a public school. This prohibition extends to all facilities, whether owned, rented, or leased, and all vehicles that a school district owns, leases, rents, contracts for, or controls. In addition, the prohibition includes vehicles used, in whole or part, for work purposes, during hours or school operation, if more than one person is present. This prohibition includes all school district property and all off-campus school district-sponsored events.
- B. A violation of this policy occurs when any elementary school, middle school, or secondary school student possesses any type of tobacco, tobacco-related device, or electronic cigarettes delivery devices in a public school. This prohibition extends to all facilities, whether owned, rented, or leased, and all vehicles that a school district owns, leases, rents, contracts for, or controls and includes vehicles used, in whole or in part, for school purposes, during hours of school operation, if more than one person is present. This prohibition includes all school district property and all off-campus school district-sponsored events.
- C. The school district will act to enforce this policy and to discipline or take appropriate action against any student, teacher, administrator, school personnel, or person who is found to have violated this policy.
- D. The school district will not solicit or accept any contributions or gifts of money, curricula, materials, or equipment from companies that directly manufacture and are identified with tobacco products, devices, or electronic cigarettes delivery devices. The school district will not promote or allow promotion of tobacco products or ~~e-cigarettes~~ electronic delivery devices on school property or at school-sponsored events.

III. TOBACCO AND TOBACCO-RELATED DEVICES DEFINED DEFINITIONS

- A. “Electronic cigarette delivery device” means any oral device product containing or delivering that provides a vapor of liquid nicotine, lobelia, and/or other similar substance, whether natural or synthetic, intended for human consumption, ~~and the~~

~~use or through~~ inhalation of ~~which simulates smoking of~~ aerosol or vapor from the product. Electronic delivery devices includes but is not limited to devices manufactured, marketed, or sold as electronic cigarettes, electronic cigars, electronic pipe, vape pens, modes, tank systems, or under any other product name or descriptor. Electronic delivery device includes any component part of a product, whether or not marketed or sold separately. Electronic delivery device excludes drugs, devices, or combination products, as those terms are defined in the Federal Food, Drug, and Cosmetic Act, that are authorized for sale by the United States Food and Drug Administration. The term shall include any such devices, whether they are manufactured, distributed, marketed, or sold as e-cigarettes, e-cigars, e-pipes, or under another product name or descriptor.

B. “Heated tobacco product” means a tobacco product that produces aerosols containing nicotine and other chemicals which are inhaled by users through the mouth.

~~CB.~~ "Tobacco" means cigarettes and any product containing, made, or derived from tobacco that is 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, cigars; cheroots; stogies; perique; 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 excludes any drugs, devices, or combination products, as those terms are defined in the Federal Food, Drug, and Cosmetic Act, that are authorized for sale by the United States Food and Drug Administration.

~~DC.~~ "Tobacco-related devices" means cigarette papers or pipes for smoking or other devices intentionally designed or intended to be used in a manner which enables the chewing, sniffing, smoking, or inhalation of ~~vapors~~ aerosol or vapor of tobacco or tobacco products. Tobacco-related devices include components of tobacco-related devices which may be marketed or sold separately.

~~ED.~~ "Smoking" means inhaling or exhaling smoke from any lighted or heated cigar, cigarette, pipe, or any other lighted or heated product containing, made, or derived from nicotine, tobacco, marijuana, or other plant product, whether natural or synthetic, that is intended for inhalation. ~~Smoking also includes carrying a lighted cigar, cigarette, pipe or any other lighted tobacco or plant product intended for inhalation and the use of electronic cigarettes, including the inhaling and exhaling of vapor from any electronic delivery device. Smoking includes carrying or using an activated electronic delivery device.~~

F. “Vaping” means using an activated electronic delivery device or heated tobacco product.

IV. EXCEPTION

- A. A violation of this policy does not occur when an Indian adult lights tobacco on school district property as a part of a traditional Indian spiritual or cultural ceremony. An Indian is a person who is a member of an Indian tribe as defined under Minnesota law.
- B. A violation of this policy does not occur when an adult nonstudent possesses a tobacco or nicotine product that has been approved by the United States 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. Nothing in this exception authorizes smoking or use of tobacco, tobacco-related devices, or electronic delivery devices on school property or at off-campus events sponsored by the school district.

V. VAPING PREVENTION INSTRUCTION

- A. The school district must provide vaping prevention instruction at least once to students in grades 6 through 8.
- B. The school district may use instructional materials based upon the Minnesota Department of Health's school e-cigarette toolkit or may use other smoking prevention instructional materials with a focus on vaping and the use of electronic delivery devices and heated tobacco products. The instruction may be provided as part of the school district's locally developed health standards.

[NOTE: In addition, school districts may choose to require (a) evidence-based vaping prevention instruction to students in grades 9 through 12; and/or (b) a peer-to-peer education program to provide vaping prevention instruction.]

VI. ENFORCEMENT

- A. All individuals on school premises shall adhere to this policy.
- B. Students who violate this tobacco-free policy shall be subject to school district discipline procedures.
- C. School district administrators and other school personnel who violate this tobacco-free policy shall be subject to school district discipline procedures.
- D. School district action taken for violation of this policy will be consistent with requirements of applicable collective bargaining agreements, Minnesota or federal law, and school district policies.

- E. Persons who violate this tobacco-free policy may be referred to the building administration or other school district supervisory personnel responsible for the area or program at which the violation occurred.
- F. School administrators may call the local law enforcement agency to assist with enforcement of this policy. Smoking or use of any tobacco product in a public school is a violation of the Minnesota Clean Indoor Air Act and/or the Freedom to Breathe Act of 2007 and is a petty misdemeanor. A court injunction may be instituted against a repeated violator.
- G. No persons shall be discharged, refused to be hired, penalized, discriminated against, or in any manner retaliated against for exercising any right to a smoke-free environment provided by the Freedom to Breathe Act of 2007 or other law.

VII. DISSEMINATION OF POLICY

- A. This policy shall appear in the student handbook.
- B. The school district will develop a method of discussing this policy with students and employees.

Adopted: December 13, 1999
 Revised: February 24, 2015
 Revised: May 13, 2019
 Revised:

Legal References: [Minn. Stat. § 120B.238 \(Vaping Awareness and Prevention\)](#)
[Minn. Stat. §§ 144.411-144.417 \(Minnesota Clean Indoor Air Act\)](#)
[144.413, Subd. 4 \(Definitions\)](#)
~~[Minn. Stat. 144.4165 \(Tobacco Products Prohibited in Public Schools\)](#)~~
~~[Minn. Stat. 144.417 \(Commissioner of Health, Enforcement, Penalties\)](#)~~
[Minn. Stat. 609.685, Subd. 1\(a\) and \(b\) \(Sale of Tobacco to Children\)](#)
[2007 Minn. Laws Ch. 82 \(Freedom to Breathe Act of 2007\)](#)

Cross References: MSBA/MASA Model Policy 403 (Discipline, Suspension and Dismissal of School District Employees)
 MSBA/MASA Model Policy 506 (Student Discipline)
 MSBA Service Manual, Chapter 2, Students; Rights, Responsibilities and Behavior