



Model Policy for a Tobacco-free Environment in Minnesota's K-12 Schools Questions & Answers

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 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 for the latest version of the model policy. To request assistance or provide suggestions, e-mail publichealthlaw@wmitchell.edu.



MODEL K-12 TOBACCO-FREE ENVIRONMENT POLICY Q & A

I. Findings

Q: Why include Findings in a comprehensive tobacco-free policy?

A: The purpose of including findings in a tobacco-free policy is to clearly identify the problems addressed with the policy. Findings can provide guidance to not only the drafters of a policy, but to the readers of policy. Common findings associated with a comprehensive tobacco-free policy include those which clearly identify tobacco problems that are related to school environments and prevalent tobacco-related health concerns. We recommend including findings that relate to your purposes, such as local statistics demonstrating the problem of youth tobacco use. Including them will provide further rationale for your policy.

- a. Tobacco use is the single most preventable cause of death in the United States.¹
- 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.²
- c. In Minnesota, smoking causes 5,500 deaths annually, and costs nearly \$2 billion in health care costs.³
- 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.⁴

Q: Why does a comprehensive tobacco-free policy need a finding about tobacco advertising?

A: This model policy recommends a section that prohibits tobacco advertising or the promotion of tobacco products. This finding gives support for that provision in the policy.

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- 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.⁵

Q: Why does a comprehensive tobacco-free policy need a finding about electronic cigarettes?

A: This model policy recommends adding e-cigarettes into the definition of prohibited products. This finding gives support for that addition to the policy.

- 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.⁶

Q: Why does a comprehensive tobacco-free policy need a finding about imitation products?

A: This model policy recommends adding imitation tobacco products into the definition of prohibited products. This finding gives support for that addition to the policy.

- 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.⁷

Q: Why does a comprehensive tobacco-free policy need a finding about tobacco industry sponsored materials?

A: This model policy recommends prohibiting the use of materials provided by the tobacco industry. This finding gives support for that addition to the policy.

II. Purpose

Q: Why is it important to include a Purpose section in a comprehensive tobacco-free policy?

A: By specifically detailing the purpose of a comprehensive tobacco-free policy, the drafters are laying out the goals they had in mind for the policy. A complete purpose section will explain why the policy is being created, what the goals of the policy include, and why it is important to follow through with the policy.

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.

Q: Why include a purpose statement about industry gifts and materials?

A: This Purpose section supports the provision that prohibits the acceptance of tobacco industry gifts or materials.

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

Q: Why include a purpose statement about staff and visitor role modeling?

A: This Purpose section supports the provision that compliance with this comprehensive policy is important for everyone. It also supports the provision that prohibits promotion of tobacco products.

III. Definitions

Q: Should a comprehensive tobacco-free policy contain a definitions section?

A: Yes. A thorough definition section explains the language and wording used in a policy and also helps to make sure the language is consistent throughout the entire document. For example, if the word “staff” is defined, readers will know that it refers to all people employed by the district either full- or part-time, as well as volunteer or contract workers. A well thought-out definition section can help reduce ambiguity and confusion in a comprehensive tobacco-free policy. For example, defining “tobacco products” is important so those responsible for enforcing the policy know what products are included. This is especially important because the tobacco industry is constantly developing new ways to deliver nicotine to users.

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- 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.

Q: Why is there a separate definition for administrators?

A: “Administrator” is separated out from “staff” because some provisions contain language pertaining to administrators only.

- b. **“Any time”** means during normal school and non-school hours: 24 hours a day, seven days a week, 365 days a year.

Q: Why is the definition for any time necessary?

A: It is important to include language in the policy to clarify provisions apply both during normal school hours and non-school hours.

- 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.

Q: Why include definition for electronic cigarette (e-cigarette)?

A: E-cigarettes should be defined specifically because they are generally not included in the tobacco product definition. The state law on youth access to tobacco was changed last year to include e-cigarettes in the tobacco products definition. (Minn. Stat. sec. 609.685)

- d. **“Electronic cigarette industry”** means manufacturers, distributors or wholesalers of e-cigarettes. This includes parent companies and subsidiaries.

Q: Why include a definition for electronic cigarette (e-cigarette) industry?

A: This term is used in the provision that limits acceptance or solicitations of gifts or materials. If the school district does not include the references to “manufacturers, distributors, or wholesalers”, it could inadvertently prohibit donations from retail businesses that simply sell electronic cigarettes. A distributor is someone who sells to a retailer. If the school board is concerned about the prohibition of gifts or materials applying to local businesses that only sell electronic cigarettes, “distributors”

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could be excluded from this definition.

- 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.

Q: Why the need for the definition of imitation tobacco product?

A: We recommend that school districts prohibit imitation tobacco products. Allowing these products on campus sends a mixed message to students.

- f. **“Lighter”** means a mechanical or electrical device typically used for lighting tobacco products.

Q: Why include the definition for lighter?

A: “Lighter” should be defined if it is prohibited from use and possession.

- 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.

Q: Why define “off-campus, school-sponsored event”?

A: A policy that bans tobacco and tobacco product use at off-campus events must specifically define off-campus events in order to clarify what types of events the policy covers.

- 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.

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Q: Why include the definition for school property?

A: An expansive school property definition can ensure that a policy is most likely enforceable on all school property and not just within the four walls of the school building(s). This definition of property allows for the policy to cover both inside and outside the school buildings. Current Minnesota law does not cover the outdoor school property. Local communities may want to consider whether it would be feasible to adopt a tobacco-free zone around the school. Duluth created a tobacco-free zone around medical facilities. (See <http://www.duluthmn.gov/clerk/council/resord06/06-032-o.htm>)

- 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 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].

Q: Why include the definition for staff?

A: This definition of staff may be more inclusive than the other provisions of the school policy. It is an important definition if the policy includes a provision for “off-campus, school-sponsored events.” The important part of the definition is the inclusion of “volunteers” and “chaperones.” At off-campus events, a volunteer or chaperon would be considered a “visitor,” and therefore not covered in the model policy without this definition. That could result in a situation in which a parent or chaperone would be able to use tobacco products.

- 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: Why include the definition for tobacco industry?

A: This definition is needed if the school district includes the prohibition regarding donations. If you do not include this definition with the reference to “manufacturers, distributors or wholesaler,” it could inadvertently prohibit donations from businesses that simply sell tobacco products. A

distributor is someone who sells to a retailer. If the school board is concerned about the prohibition including local businesses that only sell tobacco products, but are not considered tobacco products shops (see definition below), then the school district could exclude “distributors” from the definition.

- 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.

Q: Why is the definition for tobacco product important?

A: Although this definition seems long, it is important to include the full list (which is directly from the Minnesota state law recently passed). Tobacco and tobacco use can take many forms. In an effort to anticipate future tobacco products, the Minnesota tobacco control community developed this comprehensive definition of “tobacco product.” This definition was incorporated into the Tobacco Modernization and Compliance Act of 2010 and codified in Minn. Stat. § 297F.01, subd. 19. This definition is intended to be broad enough to include new products, such as snus and hookah. The tobacco industry has hundreds of products that come in every shape and size. A comprehensive tobacco-free policy must contain a thorough definition of “tobacco products” for several reasons.

- First, a comprehensive definition will ban all current, known tobacco products, and will also most likely ban future tobacco products.
- Second, if “tobacco products” are not clearly defined, a policy must contain an exception for people using cessation products. If a policy does not contain a cessation product exception, and tobacco products are not clearly defined, a policy would most likely ban cessation products.
- And lastly, providing a comprehensive definition of “tobacco products” clearly highlights to

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the reader of a policy what exactly is being prohibited.

Q: Why opt out cessation products in the definition?

A: If you do not include this section of the definition, you will need to include this information in the exemption section. Otherwise, you would be prohibiting staff from using cessation products, such as nicotine patches or gum, during the school day.

- 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.

Q: Why include a definition for tobacco products shop?

A: This definition is important if you are limiting donations or sponsorship. This definition is from the state law that outlines rules specifically associated with tobacco products shop.

- 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.

Q: Why include a definition for tobacco-related devices?

A: This should be defined if tobacco-related devices, such as lighters or rolling papers, are prohibited from use and possession.

- u. **“Tobacco-related devices industry”** means manufacturers, distributors or wholesalers of tobacco-related devices. This includes parent companies and subsidiaries.

Q: Why include a definition for tobacco-related industry?

A: This definition is important if you are limiting donations or sponsorship.

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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.

Q: Why is there a separate section that just applies to students?

A: Students are separated out from other persons because of the word “possess.” It is important to have a separate section to allow administrators, staff and visitors to possess these products, such as having a pack of cigarettes in a staff vehicle or a lighter in a purse. See below for more discussion on this topic.

Q: Why prohibit imitation tobacco products?

A: “Studies in journals such as *BMJ* (formerly *British Medical Journal*), *Pediatrics*, and *Preventive Medicine* have demonstrated that candy cigarettes and other imitation tobacco products predispose children to use tobacco later in life by desensitizing them and promoting tobacco use as culturally or socially acceptable. One such study concluded that 22% of adults who had regularly consumed candy cigarettes were regular or former smokers, compared with only 12% of adults who had never consumed candy cigarettes.” City of St. Paul, Chapter 295.01. The City of St. Paul was one of the first jurisdictions in the country to ban the sale of imitation tobacco products.

Q: Why prohibit lighters?

A: “Novelty lighters have features that are attractive to children, including visual effects, flashing lights, musical sounds and toy-like designs. The federal Consumer Product Safety Commission has recalled thousands of novelty lighters since 1996 due to their danger to public safety. Fire setting by juveniles has been identified as the fastest growing fire threat in the United States, with more than 300 people killed annually, 30% of whom are children, and almost \$1 billion in property destroyed. In 2008, the U.S. Fire Administration made banning novelty lighters the goal of Arson Awareness Week.” City of St. Paul, Chapter 295.01. The City of St. Paul was one of the first jurisdictions in the country to ban the sale of novelty lighters.

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Q: Does this provision go beyond what the Minnesota School Boards Association Model Policy?

A: Yes. The MSBA model policy prohibits possessing, smoking or using tobacco products, tobacco-related devices or electronic cigarettes on school property (inside and outside) and at off-campus, school-sponsored events. This policy adds restrictions on imitation tobacco products and lighters.

- 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.

Q: Does this provision go beyond the Minnesota School Boards Association Model Policy?

A: Yes. The MSBA model policy prohibits smoking or using tobacco products, tobacco-related devices or electronic cigarettes on school property (inside and outside) and at off-campus, school-sponsored events. This policy adds restrictions on imitation tobacco products and lighters.

Q: Would this prohibit staff, administrators and visitors from possessing these items?

A: No. These people would be able to carry tobacco products in a concealed fashion, but cannot use, consume, display or sell the listed items while on school property. For example, a teacher would not be able to carry a pack of cigarettes in a noticeable fashion, as that could be considered “displaying” the product.

Q: How does this apply to off-campus, school-sponsored events?

A: This provision does not apply to off-campus, school-sponsored events. The section below covers off-campus, school-sponsored events for non-students.

- 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,

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imitation tobacco products, lighters, or electronic cigarettes at any off-campus, school-sponsored events.

Q: Why is there a separate section for non-students as it relates to off-campus, school-sponsored events?

A: A comprehensive tobacco-free policy includes a provision enforcing the policy for staff, administrators, and visitors at off-campus, school-sponsored events. However, some districts may choose to remove the word “visitor” from the subdivision and limit application of this provision to only staff and administrators. The MSBA model policy prohibits smoking or using tobacco products, tobacco-related devices or electronic cigarettes on school property (inside and outside) and at off-campus, school-sponsored events.

Q: Does this provision go beyond what the Minnesota School Boards Association Model Policy?

A: Yes. The MSBA model policy prohibits smoking or using tobacco products, tobacco-related devices or electronic cigarettes on school property (inside and outside) and at off-campus, school-sponsored events. This policy adds restrictions on imitation tobacco products and lighters.

- 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.

Q: What does this provision cover?

A: Accepting funding or materials from the tobacco industry and the e-cigarette industry sends a mixed message to youth. This provision is meant to cover a variety of things, such as accepting tobacco-industry prevention materials, preventing e-cigarette companies from sponsoring youth events, or soliciting specific funding from companies that produce rolling papers. Federal law already limits sponsorship of youth-oriented events by the tobacco companies. This goes beyond the federal law by including other industries, as well as subsidiaries.

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Q: What is the law about tobacco industry sponsorship?

A: Federal law has limited application as it relates to tobacco industry sponsorship. The Family Smoking Prevention and Tobacco Control Act mandates restrictions on marketing and advertising cigarettes and smokeless tobacco. Specifically the law bans brand sponsorships of sports and entertainment events. The law only covers brand sponsorships, and does not cover parent company sponsorship or other tobacco-related or e-cigarette industry sponsorship. The Minnesota Settlement Agreement with leading cigarette manufacturers places restrictions on the ways in which the tobacco industry can advertise its products. Specifically, it prohibits manufactures from targeting children.

Q: Why prohibit the acceptance of tobacco-industry or other related industry dollars?

A: The tobacco industry has been targeting youth for decades. This has come in many forms, from marketing campaigns like the Joe Camel cartoon to developing tobacco products that resemble and taste like candy. In 2006, a federal judge ruled that the tobacco industry spends billions of dollars every year on marketing activities in order to encourage youth to try and then continue buying tobacco products. Judge Kessler found that the industry's youth smoking prevention programs are not designed to effectively prevent youth smoking. Instead, internal tobacco industry documents show that these prevention programs were designed for a public relations purpose, not to keep kids from smoking. Several recent studies have found that industry-sponsored prevention programs are ineffective at best and may work to encourage kids to smoke. Researchers found that youth exposed to Phillip Morris' "Think. Don't Smoke." program had more positive associations with cigarette companies compared to youth who were not exposed to that campaign. A review of campaigns on youth smoking prevention found that tobacco-funded materials avoid the most powerful anti-tobacco themes of health effects and industry manipulation. For more information on the federal decision, visit <http://www.publichealthlawcenter.org/topics/special-collections/verdict-findings-united-states-v-philip-morris-collection>. For more information on the recent studies on industry-sponsored prevention campaigns, visit <http://www.tobaccofreekids.org/reports/smokescreen/blowingsmoke.shtml>.

Q: Will having this section prohibit donations from convenience stores or box stores that sell tobacco products?

A: No, not if the policy uses the definitions listed above for tobacco industry, tobacco-related products industry, e-cigarette industry and tobacco products shop. Please note the definition for "tobacco products shop" will not prohibit donations from any store that sells tobacco, just stores that derive more than 90% of their profits from tobacco sales. Minnesota state law defines tobacco

products shop in the same way.

Q: Does this provision go beyond what the Minnesota School Boards Association Model Policy?

A: Yes. However, the MSBA is currently revising its policy, and may include specific language prohibiting the acceptance or solicitation of contributions or gifts of money, curricula, materials, or equipment from companies that directly manufacture and are identified with tobacco products, devices, or electronic cigarettes. The school district will not promote or allow promotion of tobacco products on school property or at school-sponsored events.

- 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.

Q: Why is this provision necessary?

A: Many schools have provisions that limit what messages can be displayed on clothing, but this does not extend to other things like bags. This provision goes further and includes tobacco-related products and e-cigarettes. Therefore, it would prohibit any items with tobacco, tobacco-related products or e-cigarette messaging.

Q: Does this provision go beyond what the Minnesota School Boards Association Model Policy?

A: Yes. However, the MSBA is currently revising its policy, and may include specific language prohibiting the promotion of **tobacco products on school property or at school-sponsored events.**

- 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.

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- 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.

Comment:

Tobacco-use prevention education and teacher training policies should be consistent with the programs and services offered throughout the district.

V. Exceptions

Q: Should a comprehensive tobacco-free policy contain any exceptions?

A: Maybe. Some exceptions could be important. For instance, policies may want to consider an exemption for adult Native Americans to use tobacco as part of a traditional Native American spiritual or cultural ceremony. Other exceptions can allow for approved visitors or staff to use tobacco products for educational or instructional activities.

- 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*

Q: Why should a school district include an exemption for traditional Native American ceremonies?

A: This exception is based on the Minnesota law relating to indoor tobacco use on school property. Minn. Stat. sec. 144.4165 provides “Nothing in this section shall prohibit the lighting of tobacco by an adult as a part of a traditional Indian spiritual or cultural ceremony. For purposes of this section, an Indian is a person who is a member of an Indian tribe as defined in section 260.755 subdivision 12.”

- 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.

Q: Why should a school district include an exemption for staff use for educational purposes?

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A: Some exceptions can allow staff or approved visitors to use tobacco products for educational, instructional, or research activities. For example, an outside agency would be allowed to bring new tobacco products to school property to educate teachers or a teacher would be able to use a lighter to light a Bunsen burner.

Q: Are there any other exceptions to consider?

A: A district may choose to allow students to research and study tobacco products under the supervision of a staff member.

“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 research activities in [DISTRICT NAME] school buildings or on school property if the activity is conducted or supervised by a staff member overseeing the instruction or research 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.

Q: Why should a school district include this exception?

A: If a school district does not include the full definition of tobacco product, a school district will need to include the exception above for cessation products.

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.

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Q: What should a school district consider when adding information this provision?

A: Districts should write a cessation policy to reflect the programs they have available. Cessation services are offered for free by ClearWay MinnesotaSM to adults who live in Minnesota. The QUITPLAN® hotline is 1-888-354-PLAN. Students can contact the American Lung Association Lung Helpline (1-800-Lung-USA or www.ffsonline.org).

VII. Enforcement**Q: Is an enforcement section necessary to a tobacco-free policy?**

A: Absolutely. Without an enforcement section, violating a tobacco-free policy would have no consequences. Districts must specifically create an enforcement section to include in student and staff handbooks. Below is an example of a possible enforcement guideline. Districts are encouraged to design specific enforcement policies to represent the standards unique to each district. School districts should cross reference these sections with student and/or employee handbooks. See also the Minnesota State High School League requirements at:

<http://www.mshsl.org/mshsl/publications/code/forms/2010-11AthEligInfo.pdf?ne=5>.

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 abuse educator or designated staff with parents or mandatory participation in tobacco education program.

Comment:

Districts may choose not to include a mandatory participation in tobacco education programs if those programs are not readily available.

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- 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.

Comment:

Disciplinary measures listed above are to serve as a model. Student violations should be dealt with according to the policies and procedures outlined in the student handbook provided by the district.

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.

Comment:

Disciplinary measures listed above are to serve as a model. School districts are strongly encouraged to consult their collective bargaining agreement. Staff violations should be dealt with according to the policies and procedures outlined in the staff handbook provided by the district.

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

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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.

Comment:

Under Minn. Stat. sec. 609.681, a person is guilty of a petty misdemeanor if he or she smokes in an area designated as a “non-smoking area.” According to Minn. Stat. sec. 144.416, a proprietor may ask “any person who smokes in an area where smoking is prohibited to refrain from smoking and, if the person does not refrain from smoking after being asked to do so, ask the person to leave. If the person refuses to leave, the proprietor, person, or entity in charge shall handle the situation consistent with lawful methods for handling other persons acting in a disorderly manner or as a trespasser.”

VIII. Dissemination of Policy

Q: Why is a dissemination provision important?

A: Clearly laying out a dissemination provision in a policy will ensure that the district is taking steps to get the word out about the new policy. Dissemination provisions can detail who is responsible for getting out the information, how the information will be disseminated, and when. A key to implementing a comprehensive tobacco-free policy is clearly communicating the goals and objectives of the policy to all affected parties. A clear dissemination provision can help achieve that goal.

- 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.

Comment:

Districts must delegate and outline in the policy how signs will be posted and who will post them.

- 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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Standard Event Announcement:

“To protect the health of our students, staff, and visitors, we would like to remind you that our school is 100 percent tobacco-free. Please refrain from using or displaying tobacco products anywhere on campus. Thank you for your cooperation.”

Dissemination Tips:

- Place an ad in the local paper thanking the school board for its decision to make the school district 100 percent tobacco-free.
- Ask other community agencies, such as local public health units, tobacco-free coalitions, parent teacher associations, or asthma coalitions, to include an article about the new tobacco-free school policy in their newsletters.
- Include written reminders of the policy in event programs.

IX. Program Evaluation**Q: Why should an evaluation provision be included in a policy?**

A: An evaluation provision recognizes that the needs of a comprehensive tobacco-free policy can change. Implementing and detailing an evaluation plan can ensure that policies are routinely examined and updated as needed.

- 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].

Comment:

This policy may have implications on the collective bargaining process. Therefore, it is suggested that districts seek the consultation and support of the unions prior to passage and implementation.

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STATUTES ON TOBACCO USE IN SCHOOLS

20 U.S.C. § 6083(a)

Minn. Stat. § 144.4165.

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

OTHER IDEAS

Prohibiting the possession: Prohibiting possession of all products by all persons can discourage use on breaks and immediately adjacent school property, but it may cause problems with enforcement and unintended consequences (i.e. how to treat a pack of cigarettes in a teacher's car parked in the school parking lot.) Enforcement may be even more difficult for off-campus, school-sponsored events.

- **Sample language:** It shall be a violation of this policy for any staff, administrator, or visitor of [DISTRICT NAME] to use, consume, display, sell, or possess 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.

Prohibiting tobacco odor: An odor policy can discourage staff members from using tobacco products away from the campus during breaks and allows for disciplinary action against students, staff, or visitors who enter campus with a tobacco odor. If the odor policy is adopted, a provision under enforcement must be included to address disciplinary steps. There may be enforcement issues with students and staff who have smoke odor due to second-hand smoke exposure.

- **Sample language:** Smoke or other tobacco product odors are not allowed at any time on any person on school property.

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¹ 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.

² 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>.

³ 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

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<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.

⁴ 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>.

⁵ 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>.

⁶ 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>.

⁷ 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; 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.

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