



Public Health  
Law Center

*Improving health through the power of law*



# Drafting Effective Public Health Policies

August 3 & 4, 2010



**Public Health**  
Prevent. Promote. Protect.

MINNESOTA'S  
**VISION**  
*A Better State of Health*

*Statewide Health  
Improvement Program* | SHIP

# The Public Health Law Center



Public Health  
Law Center

# The Public Health Law Center

Services to SHIP grantees include:

- Legal research
- Policy development
- Publications
- Training



# Drafting Effective Public Health Policies

## Natasha Frost

- Active Communities
- Community Nutrition
- Active Schools
- Tobacco-free and school wellness polices

## Warren Ortland

- Tobacco Free Campuses and Worksites
- Smoke-free Multi-unit Housing

## Helen Rubenstein

- Advocacy/Lobbying
- Comprehensive Worksite Wellness



# Drafting Effective Public Health Policies

## Session Objectives

- Learn to create effective public health policies
- Recognize and respond to challenges in policy drafting
- Practice identifying problems and improving policies

## Take-Aways

- Skills to draft and review policies
- Policy review checklist



# Drafting Effective Public Health Policies

## What is a policy?

- Any plan or course of action designed to influence and determine decisions



# Drafting Effective Public Health Policies

## What is an effective policy?

- ❑ Easy to understand and follow
- ❑ Easy to enforce
- ❑ Accomplishes goals



# Drafting Effective Public Health Policies

## “Do’s”

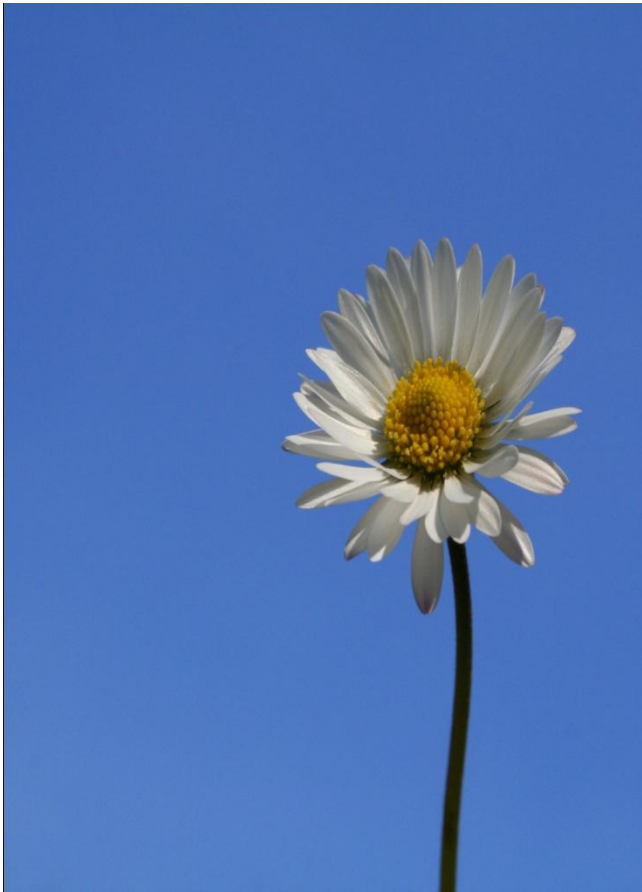
- ✓ be clear & concise
- ✓ be consistent
- ✓ be specific
- ✓ be practical



# Do: Be Clear and Concise



# Do: Be Clear and Concise



- ❑ Use definitions appropriately
- ❑ Eliminate unnecessary words
- ❑ Keep language simple
- ❑ Be precise



# Do: Be Clear and Succinct

(E) Owners, managers, operators, or employees of establishments regulated by this Ordinance shall inform persons seen violating this Ordinance of the requirements of this Ordinance. In the event an owner, manager, operator or employee of an establishment regulated by this Ordinance observes a person or persons violating this Ordinance, he or she shall immediately direct the person or persons in violation to extinguish the item being smoked. Failure of the person directed to extinguish his/her item shall result in the violator being directed to leave the premise.

1. In the event the person [or persons] violating this Ordinance complies with this directive, no violation shall exist for the owner, manager, operator or employee witnessing the violation. In the event an owner, manager, operator or employee of an establishment regulated by this Ordinance observes a person or persons violating this Ordinance and fails to immediately direct the person [or persons] in violation to extinguish the item being smoked, the owner, manager, operator or employee failing to take appropriate steps required by this Ordinance shall be in violation of this Ordinance.

2. In the event the person [or persons] violating this Ordinance fails or refuses to comply with this directive, the owner, manager, operator or employee directing the person [or persons] violating this Ordinance shall take immediate and reasonable steps to obtain the removal of the person [or persons] from the premises. As an example of the reasonableness required, if there is a person violating the ordinance who, the owner, manager, operator or employee of an establishment regulated by this Ordinance is required to remove from the premises, but the person is intoxicated or otherwise reasonably believed to be unable to safely drive or conduct himself or herself if required to leave those premises, in this event the owner, manager, operator or employee reasonably determine to allow the person violating this ordinance to remain on the premises until appropriate arrangements may be made for the person's removal.

In the event the person [or persons] violating this Ordinance is timely removed from the premises; no violation shall exist for any owner, manager, operator or employee related to the establishment in which these events occurred. In no event is an owner or agent of the premises to forcibly remove the person violating the Ordinance. Compliance is achieved under this subsection if the owner or agent of the premises orders the person violating the Ordinance to leave its premises and promptly notifies the police if the person refuses.

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If an owner, manager, operator, or employee of an establishment regulated by this Ordinance observes a person[s] violating this Ordinance, he or she shall immediately ask the person[s] in violation to stop smoking. If the person[s] violating the Ordinance does not stop smoking, the owner, manager, operator, or employee shall immediately ask the person[s] to leave the premises. If the person[s] in violation refuses to leave the premises, the owner, manager, operator, or employee shall call the police or other appropriate enforcement agency.

In no event is an owner or agent of the premises to forcibly remove the person[s] violating the Ordinance. Compliance is achieved under this subsection if the owner or agent of the premises follows these steps.

An employee who observes a person[s] violating this Ordinance may immediately notify the owner, manager or supervisor of the violation in satisfaction of the employee's responsibility under this Ordinance. The failure of the owner, manager, or supervisor to take the steps required by this subsection in response to the employee's notice shall not constitute a violation on the part of the employee.



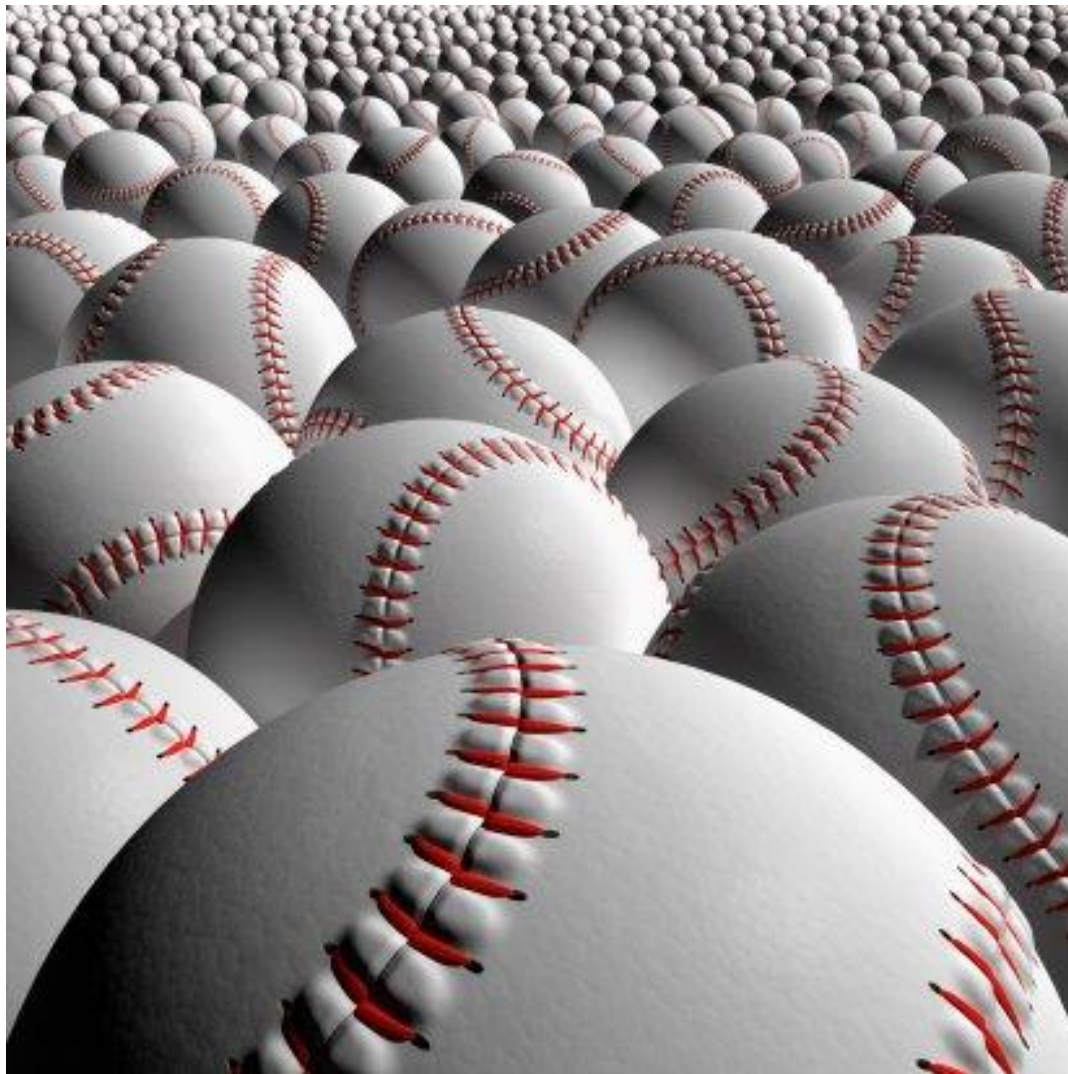
# Do: Be Clear and Succinct

North Star College declares all buildings to be smoke-free in accordance with Minnesota State law. Smoking outside of campus buildings is allowed only in designated smoking areas.

Sanctions for violating this policy may include fines and/or College disciplinary actions.



# Do: Be Consistent



# Do: Be Consistent

- ❑ Focus on policy objectives
- ❑ Policy language
- ❑ Internal & external



# Do: Be Specific

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# Do: Be Specific

## Essential elements

- Findings
- Purpose
- Definitions
- Restrictions/requirements
- Exemptions
- Enforcement



# Do: Be Practical and Reasonable



# Do: Be Practical and Reasonable

## Ability to achieve purpose

- ❑ Cost
- ❑ Effective dates
- ❑ Ability to follow policy



# Drafting Effective Public Health Policies

## “DON'Ts”

- ✓ don't forget your homework
- ✓ don't draft by “Xerox<sup>®</sup>”
- ✓ don't draft in isolation
- ✓ don't misuse exemptions



# Don't Forget Your Homework



# Don't Forget Your Homework



- ❑ Involve stakeholders
- ❑ Review sample policies
- ❑ Involve legal assistance
- ❑ Identify deal breakers
- ❑ Anticipate challenges



# Don't Forget Your Homework

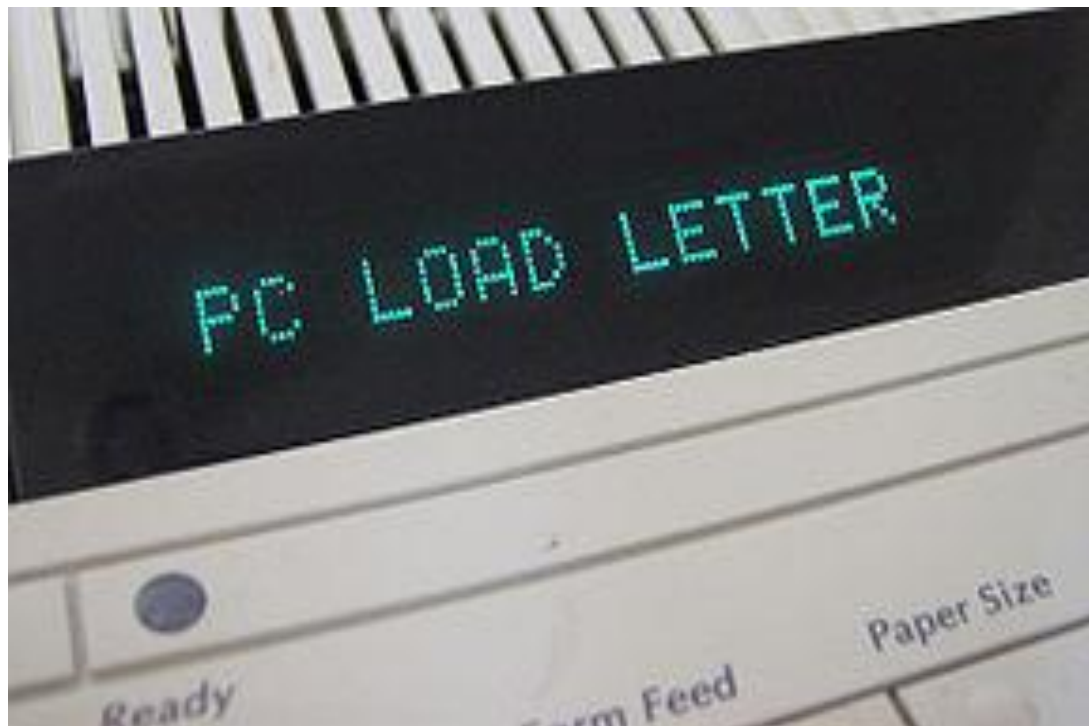
## Anticipate Challenges

- ❑ Political
- ❑ Bureaucratic
- ❑ Legal
  - ❑ Equal Protection
  - ❑ Due Process



# Don't Draft by Xerox®

Don't simply do what's been done before – it may not work for you



# Don't Draft in Isolation



# Don't Draft in Isolation

## You are not alone

- ❑ Stakeholders
- ❑ Legal assistance
- ❑ Other grantees



## Your policy is not an island

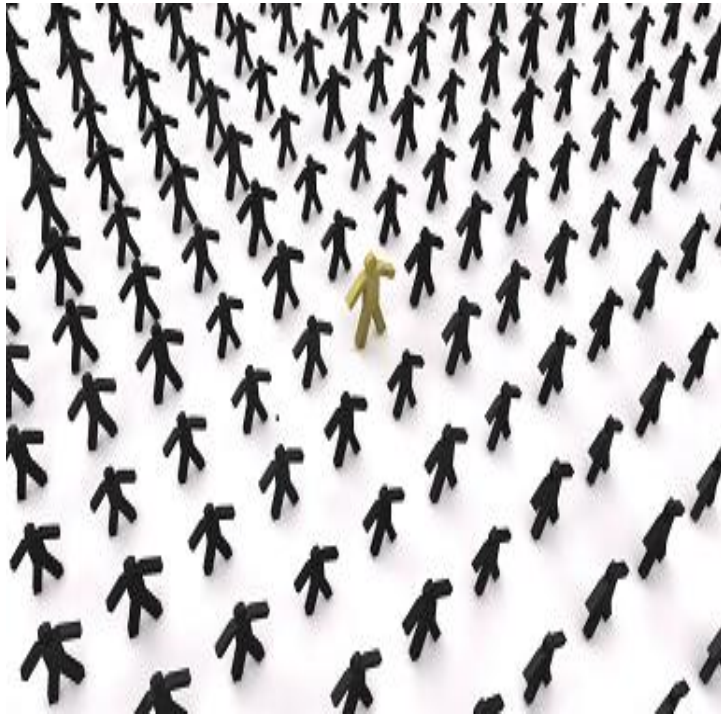
- ❑ Existing laws & policies
- ❑ Local, state and national trends



# Don't Overuse Exemptions



# Don't Overuse Exemptions



- ❑ Weaken objectives
- ❑ Make interpretation, implementation & enforcement difficult
- ❑ Inspire challenges



# Drafting Effective Public Health Policies

## Resources

- ❑ Minnesota Revisor's Manual  
[www.revisor.mn.gov/revisor/pubs/bill\\_drafting\\_manual/Cover-TOC.htm](http://www.revisor.mn.gov/revisor/pubs/bill_drafting_manual/Cover-TOC.htm)
- ❑ Model School Wellness Policies  
<http://www.schoolwellnesspolicies.org/>
- ❑ The Local Wellness: How to Create and Implement a Local Wellness Policy  
[http://www.fns.usda.gov/tn/healthy/wellnesspolicy\\_steps.html](http://www.fns.usda.gov/tn/healthy/wellnesspolicy_steps.html)



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Our new site is currently in beta testing. Please direct questions or comments about the site to our staff at [publichealthlaw@wmitchell.edu](mailto:publichealthlaw@wmitchell.edu). Thank you!

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## Healthy Eating

Policy tools and legal resources to promote nutrition and prevent obesity

- Healthy Eating
- Active Living
- Tobacco Control
- Public Health Law Basics
- Other Public Health Law

Announcement

New Publications

Public Health Blog

# Welcome

## Public Health Law Center Receives New Grant to Expand the Field of Public Health Law

The Public Health Law Center (former Tobacco Law Center) at the William Mitchell College of Law and the Robert Wood Johnson Foundation are working collaboratively to bolster the growing field of public health law. Robert Wood Johnson Foundation has awarded a grant to the Public Health Law Center, a leading legal resource on health improvement, to develop a network of experts and to provide legal technical assistance, analysis, coordination and training to public health professionals, lawyers and health advocacy organizations across the country.

The project will be led by Dan Stier, formerly with the Centers for Disease Control and Prevention's Public Health Law Program, where he served as liaison to the attorneys within state health departments, and former chief legal counsel to Wisconsin's health and social services department. Also leading the project is former Minnesota Assistant Attorney General Doug Blanke, who directs the Public Health Law Center.

### NEWS

[RWJF Invites Comments About Policies to Create Healthier Schools and Communities](#)

The Robert Wood Johnson Foundation is launching a special month-long online forum to start an open dialogue about the best ways to implement six policy priorities for reversing the childhood obesity epidemic by 2015: (1) Food and beverages in schools; (2) Marketing to children; (3) Physical activity in school; (4) Built environment; (5) Pricing strategies; and (6) High-quality, affordable foods in communities.

[Read more](#)

[Study: Quitting smoking](#)

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## Publications and Resources

Call 651.290.7506 or email [publichealthlaw@wmitchell.edu](mailto:publichealthlaw@wmitchell.edu) to request a copy of any publication (subject to availability).

### Publications

- [Articles](#)
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- [Amicus Curiae Briefs](#)
- [Interactive Tobacco Map](#) (Robert Wood Johnson Foundation)
- [Legal Documents](#)
- [Presentation Slides](#)
- [Public Health Law Glossary](#)
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### Special Collections

- [Federal Regulation of Tobacco](#)  
Factsheets, guidelines, and related materials that address legal, policy and related issues raised by the Family Smoking Prevention and Tobacco Control Act.
- [Going Too Far? Exploring the Limits of Smoking Regulation Symposium](#)  
Proceedings of the Tobacco Control Legal Consortium's 2007 public health law symposium where public health lawyers and tobacco control experts debated the impact of expansive new smoke-free policies on autonomy, privacy, confidentiality, personal liberty, and public health.
- [Going Smoke-free in the Land of Lakes: Case Studies of Seven Regions](#)  
Detailed case studies of legal and political obstacles faced by seven Minnesota regions as they adopted smoke-free laws before the state passed a smoke-free law in 2007.
- [Tracking Tobacco Laws](#)  
Digest of major tobacco-related federal and state laws and regulations that affect the State of Minnesota.
- [The Verdict Is In: Findings from United States v. Philip Morris](#)  
Compilation of select quotes from historic 1,300-page opinion in U.S. government's massive racketeering case against cigarette manufacturers.
- [WorkSHIFTS Toolkits for Employers and Unions](#)  
Resource materials for labor union leaders and employers on tobacco cessation and related workplace issues.

# Drafting Effective Public Health Policies

- ❑ Questions & Answers
- ❑ Contact us directly
- ❑ TA Requests – Warren Ortland

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(651) 290-7539

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