



Regulating Tobacco on Campuses

The Tobacco Control Legal Consortium has created this series of legal technical assistance guides to serve as a starting point for organizations interested in implementing certain tobacco control measures. We encourage you to consult with local legal counsel before attempting to implement these measures.¹ For more details about these policy considerations, please contact the Consortium.

Campus-wide Policies Restricting Tobacco Use

As awareness of the dangers of tobacco use and secondhand smoke increases, organizations are looking for more ways to protect people from tobacco-related health effects. Governmental units, private corporations, health care institutions and educational providers are creating policies that restrict the use of tobacco products. Many of these organizations share unique concerns because they are not just creating policies for a single building or discrete population, but an entire campus, which may affect employees and members of the public, non-adjacent locations, mixed use facilities, public easements, indoor and outdoor areas, vehicles, and a variety of structures. This Guide is designed to assist with the creation of effective and enforceable policies for organizations facing these unique challenges.



Policy Benefits

Medical studies have shown that tobacco smoke in any form exposes users and bystanders to serious health risks.² Evidence has also shown that the use of smokeless tobacco products, such as chewing tobacco, snuff and snus, can have adverse health effects as well, and can result in oral cancer, increased risk of heart attack and other cardiovascular disease, and addiction.³ Restricting tobacco use throughout a campus reduces these risks and promotes the health and well-being of members of the entire campus community. Because campuses are often highly visible within a community, adopting a tobacco-free policy educates the public, local government and organizations about the advisability of such a policy, and encourages them to adopt similar measures.

A campus-wide policy can also help reduce youth initiation to tobacco use, through positive modeling behavior. In addition to promoting public health, a campus-wide tobacco-free policy can be economically beneficial as well, especially if supported by an effective cessation policy.⁴ Benefits include reduced employee health care costs and absenteeism, increased employee productivity, as well as cost savings in areas such as grounds maintenance.

Policy Elements

As with all policies limiting the use of tobacco products, a campus-wide policy must be clear and concise. In drafting such a policy, ensure that it is readily understandable to many different populations and that it applies to both indoor and outdoor areas. Be prepared to address public easements that may cut through a private campus, as well as policy enforcement in a variety of locations and jurisdictions.

Strong and effective policies often include a findings section that cites studies and highlights the need for a campus-wide approach. Defining important terms clearly and consistently helps to ensure that the ordinance is interpreted, implemented, and enforced in ways that effectively protect the campus community. Also, identify the enforcement agency and procedures, define what constitutes a violation, and explain the sorts of penalties a person may face for violating the policy.⁵

Challenges

Campuses face unique challenges when adopting a smoke-free or tobacco-free policy. Successful implementation and enforcement depends on how the policy meets the following challenges.

Boundaries. For a policy to be effective, administrators, employees, members of the public, enforcement agents and others need to understand where the use of tobacco products is prohibited. The policy must be explicit in its description of campus property and boundaries.⁶ Drafters also need to be aware of the practical effects the policy may have on neighboring properties and public places. For example, a policy might address problems that could arise if smokers congregate or litter on adjacent private property or a public sidewalk or street that adjoins or crosses through the campus.⁷

Enforcement. Because of the unique nature of various campuses, different internal departments as well as external agencies often have enforcement authority. For instance, private security companies, campus law enforcement, local police and governmental agencies might each be charged with enforcing many varieties of campus policies.⁸ As such, the effectiveness of campus-wide tobacco policy may be enhanced if the policy clearly designates any enforcement agencies, if coordination occurs among various enforcement agencies, and if enforcement procedures are consistent across the entire campus.

Broad Applicability. Campus-wide policies can affect all people present on a campus, including employees, contractors, the public, students, staff, and faculty. Campus visitors, in particular, need to be educated about the policy, and enforcement agents need to be trained on how the policy might apply to visitors. An organization will see greater compliance with a campus-wide policy if it takes active steps to communicate the policy not only within the campus community, but to the general public. Broad dissemination of the policy generally results in increased voluntary compliance, even by visitors.⁹

Preemption. Generally, preemption determines how much control local governments have in enacting their own laws—and in this case, instituting policies that affect publicly owned or government campuses. Private organizations are generally not subject to preemption of this nature and usually have great leeway when instituting campus-wide policies. On the other hand, local governments contemplating a campus-wide policy need to be aware of any existing federal, state and local laws that could limit their authority in this area. Some local governments enjoy broad authority, while others are more restricted in their ability to regulate conduct such as tobacco use. Consult local counsel for help in identifying and interpreting relevant laws that could have a preemptive effect.

Collective Bargaining Units. Any organization with employees represented by collective bargaining units should consider how the unit and any collective bargaining agreement might affect a campus-wide policy. Local counsel is the best source for determining the effect of any collective bargaining agreements. But regardless of contractual obligations, consider inviting representatives from all employee groups to participate in the development process to ensure a high level of voluntary compliance with the policy. Helpful materials may be found at the Public Health Law Center.

Joint Use Facilities. When creating a campus-wide policy, be mindful of how each area on campus is used. If outside organizations rent campus space, or if the public gathers on some campus locations, you will need to communicate the policy to those groups. Also, the policy should include explicit procedures for the dissemination of this information. For example, if an office coordinates the use of campus space, it may make sense for that office to communicate the policy to the group reserving the space, include policy language in the rental or leasing contract, or to add signage when the public is invited to an on-campus event.

Off-Campus Applicability. Strong campus-wide policies apply to members of the campus community when they are at campus-related events that occur off campus grounds. Consider where individuals travel for campus-related events, and whether your policy's prohibitions should extend to campus members when they are representing your organization at these other locations. An off-site policy can further reinforce positive modeling behavior and protect the health of campus members when they participate in campus business off premises.

Examples and Select Policies

Below are examples of smoke-free and tobacco-free policies for five different types of campuses. If you consider adapting any language from these policies, take care to ensure the provision in question is practical and legal in your jurisdiction. Please note that the Tobacco Control Legal Consortium does not endorse or recommend any of the following policies. These examples are included simply to illustrate how different campuses have approached similar issues.

Institution	Name	Policy Type	Link
<i>Health</i>	National Institutes of Health	Tobacco-free	http://tobaccofree.nih.gov/tfpolicy.htm
	Metropolitan Chicago Healthcare Council	Smoke-free	http://www.mchc.org/public/smokefree/samp_policy.asp
	Wellmark (Blue Cross)	Smokefree	http://www.wellmark.com/AboutWellmark/Careers/SmokingPolicy.aspx
	Center for Social Gerontology	Model Policy for Seniors	http://www.tcsg.org/tobacco/smokefree/seniors.htm
	BroMenn Healthcare	Smoke-free	http://www.advocatehealth.com/bromenn/documents/information/Tobacco%20and%20Smoke%20Free%20Campus%20Policy.pdf
	Charles Dean Memorial Hospital	Smoke-free	http://www.mainetobaccofreehospitalnetwork.org/downloads/c.a.%20dean%20memorial%20hospital%20smoke%20free%20policy.pdf
<i>Corporate</i>	Americans for Nonsmokers' Rights	Model Policy for Workplaces	http://www.no-smoke.org/document.php?id=217
	Marriott Hotels	Smoke-free	http://www.marriott.com/marriott.mi?page=smokefree
	Amtrak	Smoke-free	http://www.amtrak.com/servlet/ContentServer/Page/1241267382715/1237405732517
	Norwegian Cruise Line	Smoke-free	http://www2.ncl.com/faq#n19248
<i>K-12</i>	Capital University Law School	Model Policy for K-12	http://www.law.capital.edu/tobacco/documents/tobacco_free_schools_model_policy.pdf
	State of North Dakota	Model Policy for K-12	http://www.ndhealth.gov/tobacco/Schools/ModelSchoolPolicyForND.pdf
<i>College and University</i>	American College Health Association	Statement on Tobacco	http://www.acha.org/Publications/docs/Position%20Statement%20on%20Tobacco_Sep2009.pdf
	Indiana University	Smoke Free	http://smokefree.indiana.edu
	University of Florida (Gainesville)	Tobacco-free	http://www.hr.ufl.edu/policies/tobacpolicy.pdf
	University of Florida (Gainesville)	Task Force Report	http://healthygators.hhp.ufl.edu/docs/Task%20Force%20Report-%20FINAL.pdf
	Florida State University (Tallahassee)	Smoke-free	http://policies.vpfa.fsu.edu/bmanual/smoking.html
	Winthrop University	Smoke-free	http://www.winthrop.edu/uploadedF

			iles/hr/policies/CAMPUS_SMOKING_POLICY.pdf
	Purdue University	Smoke-free	http://www.purdue.edu/policies/pages/facilities_land/i_4_2.html
	Forsyth Technical Community College	Smoke-free	http://www.forsythtech.edu/discover/news/stories/forsyth-tech-no-smoking-policy-effective-aug.-15-2010
<i>Government</i>	American Lung Association	State-by-State Laws	http://slati.lungusa.org/states.asp
	State of Michigan (Department of Treasury)	Smoke-free	http://www.michigan.gov/documents/treasury/ET-03084_200378_7.pdf
	U.S. Government (General Services Administration)	Smoke-free	http://edocket.access.gpo.gov/2008/E8-30377.htm
	U.S. Department of Agriculture	Smoke-free	http://www.ocio.usda.gov/directives/doc/DR4400-006.htm
	State of Nebraska (local governments beginning pg. 10)	Smoke-free	http://www.hhs.state.ne.us/tfn/05TFN_LocalGovt.pdf
	State of Iowa	Smoke-free	http://www.iowasmokefreeair.gov/common/pdf/facts/public_grounds_facts.pdf
	Sarasota County, Florida	Smoke-free	http://www.scgov.net/HealthWellness/documents/TobaccoFreeCampusesFAQs.pdf

Other Helpful Resources

The Consortium's parent organization, the [Public Health Law Center](#), has a webpage containing information on [smoke-free regulation](#). Included are helpful resources that discuss concepts related to [outdoor smoke-free regulations](#) and campus-wide policies such as those applicable to [smoke-free multi-unit housing](#) facilities and [the authority to regulate smoking](#). Other organizations, including the [Americans for Nonsmokers' Rights](#) and [BACCHUS](#), also have resources related to campus-wide policies.

Contact Us

Please feel free to contact the Tobacco Control Legal Consortium at (651) 290-7506 or publichealthlaw@wmitchell.edu with any questions about the information included in this Guide or to discuss local concerns you may have about implementing such a policy.

¹ The information contained in this document does not constitute legal advice. For legal advice, consult an attorney licensed in your state.

² U.S. Dep't of Health & Human Services, *The Health Consequences of Involuntary Exposure to Tobacco Smoke: A Report of the Surgeon General* (2006), available at <http://www.surgeongeneral.gov/library/secondhandsmoke/report/>. *Smoking and Tobacco Use: A Report of the Surgeon General* (2004), available at http://www.cdc.gov/tobacco/data_statistics/sgr/2004/complete_report/index.htm

³ The Mayo Clinic, *Chewing Tobacco: Not a Safe Alternative to Smoking* (2010), available at <http://www.mayoclinic.com/health/chewing-tobacco/CA00019>.

⁴ David B. Abrams et al., *Boosting Population Quits Through Evidence-Based Cessation Treatment and Policy*, 38 AM. J. PREV MED S351 (2010), available at <http://www.tobacco-cessation.org/PDFs/March%202010%20Supplement/Boosting-Abrams.pdf>.

⁵ See Americans Nonsmokers' Rights Foundation (ANRF), *U.S. Colleges and Universities with Smokefree Air Policies* (July 5, 2010), available at <http://www.no-smoke.org/pdf/smokefreecollegesuniversities.pdf>, for a list of campus policies that successfully implement these elements.

⁶ See Jennifer Delgado, *No Smoking Fines Yet on Campus*, DAILY IOWAN (March 24, 2009), available at <http://www.dailyiowan.com/2009/03/24/Metro/10659.html> (discussing the difficulty in informing the public regarding the new campus policy).

⁷ Boise State University, *Frequently Asked Questions Smoke-Free Campus Initiative*, available at <http://healthservices.boisestate.edu/pdf/SmokeFreeFAQs102008.pdf>.

⁸ See Delgado, *supra* note 6 (discussing enforcement of the new policy by UI police).

⁹ Tobacco-Free U.org provides information to assist campuses trying to create tobacco-free programs or groups, but many of the same ideas can be carried over into disseminating information regarding a new smoke-free policy. Tobacco-Free U.org, *Marketing Your Program*, 2010, available at <http://www.tobaccofreeu.org/programming/marketing.asp>. Americans for NonSmokers' Rights provides an implementation checklist that can also assist in disseminating information on the new policy. ANRF, *Implementing Your New Smokefree Law*, available at <http://www.no-smoke.org/pdf/implementation.pdf>.

Updated: January 2011