TOOLS TO ASSIST SCHOOLS NAVIGATE THE VAPING EPIDEMIC
LEGAL TECHNICAL ASSISTANCE

- Legal Research
- Policy Development, Implementation, Defense
- Publications
- Trainings
- Direct Representation
- Lobby
Equality

Equity
MICHELLE MERCURE, CHES
AGENDA

• Brief Overview of Current Youth Vaping Crisis

• Explanation of Model School Policy

• Discussion of ALA’s INDEPTH Program

• Questions
VAPING-RELATED LUNG INJURIES AND DEATHS*

- **2,051 cases of vaping-related lung injuries** reported to CDC
  - Including from 49 states (no reports from Alaska), the District of Columbia, and one U.S. territory
  - 54% of those with vaping-related lung injuries are 24 years old or younger**
- **39 vaping-related deaths** have been confirmed in 24 states
  - Median age of deceased patients is 53 years old and ranges from 17 to 75
- Investigation still underway; developments related to vitamin E acetate

*Information current as of November 5, 2019

**Among 1,364 patients with data on age
YOUTH E-CIGARETTE EPIDEMIC (2011 – 2018)

FIGURE 2. Estimated percentage of high school students who currently use any tobacco product,* any combustible tobacco product,† ≥2 tobacco product types,* and selected tobacco products — National Youth Tobacco Survey, 2011–2018%.**††
YOUTH E-CIGARETTE EPIDEMIC (2019)

YOUTH E-CIGARETTE FLAVOR PREFERENCE

High School E-Cigarette Flavor Preference

- Fruit
- Menthol or Mint
- Candy
- Alcoholic drink
- Chocolate
- Clove/spice
- Other flavor
PUBLIC HEALTH LAW CENTER

MODEL COMMERCIAL TOBACCO-FREE POLICY FOR K-12 SCHOOLS
COMMERCIAL TOBACCO & YOUTH TARGETING

Menthol cigarette use among current smokers in the U.S. by age, 2012-2014

Source: Tobacco control

Counter Tools

PUBLIC HEALTH LAW CENTER
at Mitchell Hamline School of Law
EFFECT OF COMMERCIAL TOBACCO USE ON HEALTH

• Commercial tobacco is manufactured for profit and results in death and disease.
• The tobacco industry has admittedly targeted young people for decades to replace their dying consumer base.
• Nicotine harms brain development as teens grow.
• Youth nicotine exposure has negative implications for learning, memory, and attention span.
• Nicotine can change brain chemistry, making youth more susceptible to addiction. The earlier the exposure, the greater the risk.
• Symptoms of nicotine addiction can appear among youth within only a few days or weeks after smoking initiation.
• Youth nicotine use results in increased risk of other addiction.
YOUTH E-CIGARETTE EPIDEMIC (2019)

FIGURE 2. Estimated percentage of high school students who currently use any tobacco product,* any combustible tobacco product,^ ≥2 tobacco product types,§ and selected tobacco products — National Youth Tobacco Survey, 2011–2018%.**,**+††
WHAT SCHOOLS CAN DO

- Review current policy and curriculum.
- Promote health messaging and offer support throughout school.
- Advisory to parents.
- Post Signage.
School Districts Sue Juul, Saying Student Vaping Drains Resources

October 5, 2019 · 12:44 PM ET

ELLE MOXLEY
WHAT SCHOOLS CAN DO

- Review current policy and curriculum.
- Promote health messaging and offer support throughout school.
- Advisory to parents.
- Post Signage.
**MODEL FOR K-12 SCHOOLS: COMMERCIAL TOBACCO-FREE POLICY**

**COMMERCIAL TOBACCO-FREE K-12 SCHOOL MODEL POLICY**

**Questions & Answers**

The use or promotion of commercial tobacco products on school grounds and at 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. Many states also have laws that restrict commercial tobacco use, including electronic cigarettes, in public K-12 schools. However, federal law and many state laws do not cover outdoor school grounds.

[Image]

**PUBLIC HEALTH LAW CENTER**

at Mitchell Hamline School of Law
KEY COMPONENTS OF THE MODEL

SUMMARY

• Comprehensive definition of commercial tobacco products to include current and future tobacco products
• Prohibits the following items on campus (inside and outside buildings) and at off-campus, school-sponsored events:
  – Tobacco products and tobacco-related devices, which include electronic cigarettes,
  – Imitation tobacco products (such as candy cigarettes), and
  – Lighters;
• Prohibits receipt of donations/curricula from tobacco-related industries;
• Prohibits promotion of tobacco products; and
• Includes effective and holistic enforcement options for student violations beyond suspension and expulsion.
KEY COMPONENTS OF THE MODEL

OVERVIEW

• Findings
• Purpose
• Definitions
• Policy provisions
• Exceptions
• Opportunities for cessation programs
• Enforcement
• Effective date
KEY COMPONENTS OF THE MODEL
FINDINGS

• Findings
  – Specific to the goals of the policy
  – Specific to the issues addressed by the policy
  – Used to provide the evidentiary support for the policy
  – Findings should clearly identify tobacco-related health concerns and problems with commercial tobacco that are related to school environments
KEY COMPONENTS OF THE MODEL

PURPOSE

II. Purpose

(A) The [district name] Board of Education / [school name] recognizes that the use of commercial tobacco products, including electronic delivery devices, 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 commercial tobacco products, including electronic delivery devices, to users and non-users. The [board/school] believes that the use or promotion of commercial tobacco products, including electronic delivery devices, 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/school] also believes accepting gifts or materials from the tobacco industry will send an inconsistent message to students, staff, and visitors.

(C) The [board/school] 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 or aerosol and other commercial tobacco use for the students, staff, and visitors.

THEREFORE, the [board/school] adopts the following commercial tobacco-free policy:
Tobacco traditions have been passed down for generations. Tobacco plants have been considered to be sacred for Indigenous people.
Important comprehensive definitions for coverage, clarity, and compliance:

**Where/When**
- Any time
- Off-campus, school sponsored event
- School
- School property

**What**
- Electronic smoking device
- Smoking

**Who**
- Parent/guardian
- Administrator
- Staff
- Student
- Visitor
- Tobacco Industry
KEY COMPONENTS OF THE MODEL

DEFINITIONS
KEY COMPONENTS OF THE MODEL
POLICY PROVISIONS

• Students—Prohibited from possessing, using, consuming, displaying, promoting, or selling:
  – Any tobacco products, tobacco-related devices, imitation tobacco products, or lighters
  – At any time
  – On school property or at any off-campus, school-sponsored event.

• Staff/Administrators/Visitors—Prohibited from using, consuming, displaying, activating, promoting, or selling:
  - Any tobacco products, tobacco-related devices, imitation tobacco products, or lighters
  - At any time
  - On school property or at any off-campus, school-sponsored events.
• Prohibits schools/districts from accepting tobacco-industry sponsorship, donations, money, curricula.
• Prohibits any person from promoting tobacco products, tobacco-related devices, or imitation tobacco products. This includes promotions on signs, gear, clothing, etc.
• Requires that the school/district enforce the policy.
• Requires instruction to discourage use of tobacco products.
SPONSORSHIP, PROMOTION AND FUNDING
MISINFORMATION; TARGETED MARKETING


https://www.youtube.com/watch?v=gnwBL7ycWEY
SPONSORSHIP, PROMOTION AND FUNDING
DATA AND PRIVACY ISSUES

Juul's New E-Cig Sure Is Collecting a Dumb Amount of Data About Its Users

Catie Keck
8/05/19 12:25pm • Filed to: JUUL

678K 29 2

Photo: Sam Bumberford (Gizmodo)
KEY COMPONENTS OF THE MODEL

EXCEPTIONS

• Use of tobacco products and devices as part of an indigenous practice or a lawfully recognized religious, spiritual, or cultural ceremony or practice.

• If included in instructional or work-related activity, but not smoked, chewed or otherwise ingested.

• Nonstudents age 18 and over may have products that have been approved by the U.S. Food and Drug Administration for sale as tobacco cessation product, as a tobacco dependence product, or for other medical purposes for use.
  - E-cigarettes are not approved cessation products.
Punitive measures like suspension and expulsion are not included.

VII. Enforcement

The success of this policy depends upon the thoughtfulness, consideration, and cooperation of the whole [district/school name] community. All individuals on school premises, including students, staff, administrators, and visitors are responsible for adhering to and enforcing this policy. Members of the [district/school name] community are encouraged to communicate this policy with courtesy and diplomacy. Any person acting in violation of this policy will be informed or reminded of the policy and asked to comply.

(A) Students

(1) The first violation shall result in confiscation of tobacco products, tobacco-related devices, imitation tobacco products, or lighters; notification of parents and/or guardians; and at least one of the following:

(i) A student meeting and individual student assessment with a chemical health educator or designated staff to discuss commercial tobacco use and the school policy.

(ii) Student participation in a tobacco education program.

(iii) Provision of information to student about available cessation programs and resources.

(2) The second violation shall result in confiscation of tobacco products, tobacco-related devices, imitation tobacco products, or lighters; and at least one of the following:

(i) A student meeting and individual student assessment with a chemical health educator or designated staff to discuss commercial tobacco use and the school policy.

(ii) Student participation in a tobacco education program.

(iii) Provision of information to student about available cessation programs and resources.
Richardson ISD confiscated 200 e-cigs, expelled 23 students in vaping cases last school year

WFAA reached out to 20 school districts in North Texas about vaping data. Seven are keeping numbers readily on hand.

Teenage vaping: E-cigarettes are No. 1 cause of school suspensions
KEY COMPONENTS OF THE MODEL ENFORCEMENT

For Merianos, who specializes in adolescent substance use prevention, education and counseling, at least in conjunction with discipline, are important tools.

"The reason why is, if students are suspended and they aren't being educated, I'm not sure if they're not going home and Juuling, for example, if their parents are off at work," she said.

In the Arrowhead district in Wisconsin, for example, even the threat of being suspended from school sports did not prevent athletes from vaping on campus.
KEY COMPONENTS OF THE MODEL ENFORCEMENT

STUDENT COMMERCIAL TOBACCO USE IN SCHOOLS

Alternative Measures

School policies regulating the use and possession of commercial tobacco products, including electronic delivery devices (e.g., e-cigarettes, vaping devices, JUUL, Suorin), often contain punitive measures for student violations.

This publication provides sample language and ideas for evidence-based solutions and information as to why these alternative measures may be more effective than suspension and expulsion at addressing student tobacco use and nicotine addiction as part of a school's Commercial Tobacco-Free Policy.

The sample language for alternative measures in this publication is part of the Public Health Law Center's comprehensive Commercial Tobacco-Free K-12 School Model Policy.

www.publichealthlawcenter.org
The tobacco industry has targeted youth to maintain profits for decades.

Nicotine exposure in adolescence can permanently change brain development and make the addiction to nicotine very difficult to break.

Effective solutions focus on helping youth succeed—education and cessation support address the intent to decrease and prevent initiation of youth commercial tobacco product use.

Punitive measures like suspensions and expulsions do not help with addiction and increases the likelihood of initiation and continued use.

Tobacco use disparities and implicit bias in the administration of penalties may result in unequal treatment of students that is prohibited by law.
KEY COMPONENTS OF THE MODEL
ENFORCEMENT

RPS Data Shows Progress in 'Disproportional Disciplining'

New Data Shows Progress

July 16, 2019 11:00 PM
KEY COMPONENTS OF THE MODEL
ENFORCEMENT

NAEP scores for reading and math, grade 8, by days absent from school in the prior month: 2013

- Reading:
  - 0 days: 271
  - 1-2 days: 269
  - 3 or more days: 258

- Math:
  - 0 days: 290
  - 1-2 days: 285
  - 3 or more days: 272
KEY COMPONENTS OF THE MODEL ENFORCEMENT

- Confiscation
- Notification to parents/guardians
- Student chemical health assessment
- Tobacco education program
- Cessation and counseling
- Educational community service
- Programming
KEY COMPONENTS OF THE MODEL

ENFORCEMENT

Vaping Liquids, E-cigarettes, and Nicotine Wastes
Guidance for businesses handling nicotine-containing wastes

Vaping liquid, the solution used in electronic cigarettes is also known as E-liquid, E-juice, E-fluid, or liquid nicotine. Discarded vaping liquid may present a significant risk to human health and the environment if improperly disposed. Other nicotine-containing wastes, including electronic cigarettes themselves (e-cigarettes), nicotine gum and nicotine patches, also present health and safety risks.

Businesses and government agencies handling any of these wastes must comply with the hazardous waste requirements administered by the Minnesota Pollution Control Agency (MPCA) and the metropolitan counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington (Metro Counties).

You may find more information regarding hazardous waste requirements in Minnesota on the MPCA’s website at https://www.pca.state.mn.us/waste/hazardous-waste-documents-and-forms.

How are nicotine wastes regulated?
Any waste discarded by a business or government agency that contains any concentration of nicotine may be considered an acute hazardous waste in Minnesota. Examples of these wastes include:

- Vaping liquid that contains nicotine.
- Shipment or storage containers or E-cigarette cartridges that held nicotine or nicotine-containing vaping liquid that have not been triple-rinsed, even if they look empty.
- Rinsewater from rinsing nicotine and vaping liquid containers.
- Vaping liquid spill cleanup materials.
- E-cigarettes, whether used or not, unless the vaping liquid reservoirs have been removed.
- Unused nicotine gum.
- Unused nicotine patches.

There is no minimal amount or concentration of nicotine-containing material that is exempt from regulation.
KEY COMPONENTS OF THE MODEL
ENFORCEMENT

Staff

• The first violation of this policy shall result in a verbal warning to the staff member, and an offer of a referral to cessation services.

• The second violation shall result in a written warning to the staff member with a copy placed in the staff member’s district personnel file, and an offer of referral to cessation services.

• The third violation shall be considered insubordination and shall be dealt with accordingly based on established policies and procedures for staff.
Visitors

• Visitors observed violating the policy shall be asked to comply.

• If they fail to comply with the request, the violation may be referred to the principal or other available school district supervisory personnel.

• The supervisor will decide on further action, that may include a directive to leave school property and forfeiting any fee charged for admission to a school-sponsored event.

• Repeated violations may result in a recommendation that the superintendent prohibit the individual from entering school property for a specified period of time.
KEY COMPONENTS OF THE MODEL

CESSATION

• Policy should support cessation through partnerships with local public health and community-based organizations.

• Administration should provide evidence-based programs and services for staff to help them comply.

• Cessation support as a part of enforcement.
KEY COMPONENTS OF THE MODEL
DISSEMINATION

• Signage
• Orientations
• Handbooks
• Announcements at school events

Sample Standard Event Announcement: “To protect the health of our students, staff, and visitors, we would like to remind you that our school is 100% free of commercial tobacco. Please refrain from using or displaying tobacco products anywhere on campus. If you have questions, please contact school administration. Thank you for your cooperation.”
KEY COMPONENTS OF THE MODEL
PROGRAM EVALUATION

• Assessed at regular intervals, but at least once a year

• Determine whether policies, enforcement, dissemination, education, staff training, and cessation programs are effective.

• Policies and programs shall be updated and revised accordingly.
KEY COMPONENTS OF THE MODEL
EFFECTIVE DATE

• Effective Date
  – This policy shall take effect in full on [INSERT DATE].

• An effective date allows for preparation, education, and sets clear expectations.
LOOKING OUTSIDE OF THE SCHOOL ENVIRONMENT

• Local and state policy can limit youth access and interest in commercial tobacco:
  - Restricting or prohibiting the sale of flavored tobacco products, especially menthol cigarettes
  - Increase price of products and prohibit or restrict price discounts
  - Limit the location, number and density of commercial tobacco retailers
  - Increase the minimum legal sales age (T21) – ensure no PUP penalties
  - Implement comprehensive smoke-free policies and laws

• Connect with state and local public health departments, public health advocacy organizations (e.g., the American Lung Association)
OTHER PHLC RESOURCES
E-Cigarettes & School Policies:
Resources for Schools

Michelle Mercure, CHES
Division Director, Health Promotion
The American Lung Association is very concerned that we are at risk of losing another generation to tobacco-caused diseases as the result of e-cigarettes.
PROGRAM BACKGROUND
INDEPTH™ PILOT SUMMARY

• The pilot involved 11 sites across the country

• Sites included middle schools, high schools, alternative school and court system

• Sites served urban, suburban and rural communities

• Pilot Summary and Infographic are available at Lung.org/INDEPTH
INDEPTH™ PILOT SITES

Alaska Job Corps (AK)
ARCH- McKinley Heights (AK)
Superior Senior High School (WI)
Kimberly Area High School (WI)
Montgomery County Juvenile Court Schools (OH)
Kettering Fairmount High School (OH)
Western Wayne High School (PA)
Wellsboro Area High School (PA)
McLean County High School (KY)
Johnson Central High (KY)
Mohave County Public Health Department/Lee Williams High School (AZ)
ABOUT THE PROGRAM

INTERVENTION FOR NICOTINE DEPENDENCE:
EDUCATION, PREVENTION, TOBACCO AND HEALTH

AMERICAN LUNG ASSOCIATION® IN DEPTH
PROGRAM FEATURES

• Convenient
• Easy to Implement
• Customizable
• Structured
• Addresses Current Trends
• FREE

PROGRAM SESSIONS

GETTING THE FACTS
Understanding behavior

ADDICTION
The role of nicotine

ALTERNATIVES TO PRODUCT USE
Coping with cravings

PAST, PRESENT, FUTURE
Making a change
TARGET AUDIENCE

• Designed for youth in school or community settings

• For schools and youth-serving organizations looking for an alternative to disciplinary actions

• For those who are vaping or using other tobacco products
Lung.org/INDEPTH

Facilitators request access by completing a brief survey.

Facilitators complete an online INDEPTH training.

Facilitators download materials and prepare to offer INDEPTH program.
LUNG.ORG/INDEPTH

- Policy Guidance
- The Vape Talk
- E-Cigarette One-pagers
- Pilot Summary and Infographic
- Facilitator Training Registration/Survey
- Not On Tobacco Program Information
ADDITIONAL RECOMMENDATIONS

- Staff education regarding devices, emerging trends
- Device confiscation
- Parent and family support and resources
- Cessation Resources
THE VAPE TALK

IF YOU DON’T PROTECT YOUR KIDS FROM VAPING, WHO WILL?

Over 3,700 kids start vaping every day. Misconceptions, peer pressure and marketing tactics all contribute to the staggering rise. Talk to your kids about e-cigarettes while they’re still willing to listen.

DOWNLOAD THE CONVERSATION GUIDE
INDEPTH (Intervention for Nicotine Dependence)

- Nicotine dependence intervention for youth
- Mandatory for participants
- Group or one-on-one setting
- Four sessions, 50 minutes
- Email INDEPTH@Lung.org for more information

Not On Tobacco (Teen Tobacco Cessation)

- Smoking cessation program for youth
- Voluntary for participants
- Facilitated group setting
- Revisions underway; Pilot opportunities in 2020
- Email NOT@Lung.org for more information
• Visit Lung.org/e-cigs to access resources for teens, parents and schools to learn more about the products

• Institute and enforce a comprehensive tobacco-free school campus policy that include e-cigarettes

• Visit Lung.org/INDEPTH or email INDEPTH@Lung.org to learn more about this alternative to suspension program.

• Interested in becoming a pilot site for N-O-T (cessation)? Visit Lung.org/NOT or email NOT@lung.org to register.
THANK YOU!

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262-703-4200

Lung.org/INDEPTH  INDEPTH@LUNG.org

Lung.org/NOT  NOT@LUNG.org
CONTACT US
We can provide free legal technical assistance – school policy review, sample language, answers to questions, publications, and presentations.

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