

TOBACCO-FREE SCHOOLS: USE AND POSSESSION OF TOBACCO AND ELECTRONIC SMOKING DEVICES

The Board recognizes that research shows that tobacco continues to be the leading cause of preventable disease and death in Maine and the United States, for both users and those exposed to second-hand smoke. The Board is also aware that a growing body of evidence suggests that the chemicals present in the aerosols (“vapor”) produced by electronic smoking devices, may pose significant long-term risks to health, as well the risk of addiction to nicotine.

The Board is committed to providing a safe and healthy environment for students, staff, and visitors to the schools, including members of the community who use school facilities for recreational and other purposes.

To that end, and in compliance with applicable state and federal laws, all persons are prohibited from smoking and tobacco use in school buildings, on any school grounds (including parking lots), on school buses and school-owned or leased vehicles, and at all school sponsored events at all times.

DEFINITIONS:

For the purpose of this policy:

“Tobacco use” means smoking or the carrying or possession a tobacco product (22 MRSA §1578-B (1)(D)).

“Smoking” includes carrying or having in one’s possession a lighted or heated cigarette, cigar or pipe or heated tobacco or plant product intended for human consumption through inhalation whether natural or synthetic in any manner or any form. “Smoking” includes the use of an electronic smoking device (22 MRSA § 1541(6)).

“Tobacco product” means any product that is made from or derived from tobacco, or that contains nicotine, that is intended for human consumption or is likely to be consumed, whether smoked, heated chewed, absorbed, dissolved inhaled or ingested by any other means, including but not limited to, a, cigar, hookah, pipe tobacco, chewing tobacco, snuff or snus. “Tobacco product” also means an electronic smoking device and any component or accessory used in the consumption of a tobacco product such as filters, rolling papers, pipes and liquids used in electronic smoking devices whether or not they contain nicotine (22 MRSA § 1551(3)) .

[NOTE: Under P.L. Chapter 61 (2019), “*An Act to Prohibit the Possession and Use of Electronic Smoking Devices on School Grounds,*” “tobacco use” includes “smoking” (as defined in 22 MRSA §1541(6)) and “carrying or having in one’s possession a tobacco product as defined in 22 MRSA § 1551(3).

“Electronic smoking device” is defined more directly elsewhere in Maine law (22 MRSA § 1541(1-A,) as “a device used to deliver nicotine or any other substance intended for human consumption that may be used by a person to simulate smoking through inhalation of vapor or aerosol from the device, including, without limitation a device manufactured, distributed, marketed or sold as an electronic cigarette, [] or so-called vape-pen”].

In enacting P.L. Ch. 308 (2017), “*An Act to Reduce Youth Access to Tobacco Products,*” the Maine Legislature raised the age for sales of tobacco products (including electronic smoking devices) from 18 to 21 (with the exception of persons who had reached 18 years of age as of July 1, 2018).]

[OPTIONAL LANGUAGE, FOR EMPHASIS:

“At all times” means 24 hours per day, 354 days a year, including all days when school is not in session and at all functions taking place on school grounds, including organized non-school-sponsored activities and events and casual recreational uses.]

All persons are prohibited from selling, distributing, or dispensing tobacco products to students in school building, on school grounds or at school-sponsored events at all times.

CONSEQUENCES FOR VIOLATION

STUDENTS:

The Superintendent/designee(s) shall be responsible for developing age-appropriate disciplinary guidelines for students violating this policy and for employing strategies, as practicable, to address prevention, education, and information about community programs for cessation assistance.

The Superintendent or his/her designee reserves the right to refer students to a law enforcement agency, on a case-by-case basis, as he/she may deem necessary. However, the Superintendent/designee shall refer to a law enforcement agency any student reasonably suspected of selling, dispensing or distributing tobacco products or vaping devices/products.

Parents/guardians will be notified of all violations involving their student and action taken by the school.

STAFF:

School unit employees who violate this policy will be subject to appropriate disciplinary measures up to and including dismissal.

Any school unit employee suspected of selling, distributing or in any way dispensing tobacco products or vaping devices/products to students shall be referred to a law enforcement agency.

OTHER PERSONS IN VIOLATION:

All other persons violating this policy, including parents, vendors/contractors, spectators at school events and other visitors shall be asked to refrain from use and reminded of the Board's policy. Persons who do not comply will be asked to leave school grounds. Failure to leave school grounds will be treated as trespassing and law enforcement personnel may be contacted.

Persons suspected of selling, distributing or in any way dispensing tobacco products or vaping devices/products to students shall be referred to an appropriate law enforcement agency.

RESPONSIBILITY FOR ENFORCEMENT

The building principal/designee will be responsible for enforcing this policy at the school level.

NOTICE

Notice of this policy and disciplinary consequences for violations will be posted on the school unit's website and included in the student code of conduct and/or student handbooks and in annual employee communications.

Parents/ guardians shall also be notified in writing of the Board's policy at the beginning of the school year.

"Tobacco-free campus" signage will be posted in highly visible areas at entrances and on school grounds, including entrances to athletic facilities.

EDUCATION

Age-appropriate tobacco/"vaping" prevention and awareness instruction will be incorporated into the school unit's health curriculum, in alignment with Maine's system of Learning Results and in support of the school unit's wellness policy goals, to educate students about the dangers of tobacco and vapor products and to encourage a tobacco and "vape-free" lifestyle.

As feasible, information regarding treatment and cessation resources will be made available to students and school unit employees who want to quit.

ADVERTISING OF TOBACCO PRODUCTS

Advertising of tobacco products is prohibited in school buildings, on school property, and in school publications.

Legal Reference: 22 MRSA §§ 1541, 1551, 1578-B
Me. PL Ch. 61 (2019) (*An Act to Prohibit the Possession and Use of Electronic Smoking Devices on School Grounds*)
20 USC 6081-6084 (*Pro-Children Act of 1994*)

Cross Reference: JICA – Student Dress
JL – Student Wellness
KF – Community Use of School Facilities
KHB – Advertising in the Schools

Adopted: _____

PLEASE NOTE MSMA sample policies and other resource materials do not necessarily reflect official Association policy. They are not intended for verbatim replication. Sample policies should be used as a starting point for a board's policy development on specific topics. Rarely does one board's policy serve exactly to address the concerns and needs of all other school units. MSMA recommends a careful analysis of the need and purpose of any policy and a thorough consideration of the application and suitability to the individual school system.

MSMA sample policies and other resource materials may not be considered as legal advice and are not intended as a substitute for the advice of a board's own legal counsel.