

TOBACCO-FREE SCHOOLS

The Governing Board recognizes that smoking and other uses of tobacco and nicotine products constitute a serious public health hazard and are inconsistent with district goals to provide a healthy environment for students and staff.

(cf. 3514 - Environmental Safety)

(cf. 4159/4259/4359 - Employee Assistance Programs)

(cf. 5030 - Student Wellness)

(cf. 5131.62 - Tobacco)

(cf. 5141.23 - Asthma Management)

(cf. 6142.8 - Comprehensive Health Education)

(cf. 6143 - Courses of Study)

The Board prohibits **smoking and/or** the use of tobacco products at any time in district-owned or leased buildings, on district property, and in district vehicles. (*Health and Safety Code 104420, 104559 ; Labor Code 64045; 20 USC 6083*)

~~This prohibition applies~~ **These prohibitions apply** to all employees, students, and visitors at any school-sponsored instructional program, activity, or athletic event held on or off district property. Any written joint use agreement governing community use of district facilities or grounds shall include notice of the district's tobacco-free schools policy and consequences for violations of the policy.

(cf. 1330 - Use of School Facilities)

(cf. 1330.1 - Joint Use Agreements)

~~The products prohibited include any product containing tobacco or nicotine, including but not limited to cigarettes, electronic hookahs, and other vapor emitting devices, with or without nicotine content, that mimic the use of tobacco products.~~

Smoking means inhaling, exhaling, burning, or carrying of any lighted or heated cigar, cigarette, pipe, tobacco, or plant product intended for inhalation, whether natural or synthetic, in any manner or form, and includes the use of an electronic smoking device that creates aerosol or vapor or of any oral smoking device for the purpose of circumventing the prohibition of smoking. *(Business and Professions Code 22950.5; Education Code 48901)*

Tobacco products include: *(Business and Professions Code 22950.5; Education Code 48901)*

- 1. Any product containing, made, or derived from tobacco or nicotine that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including, but not limited to, cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, or snuff**
- 2. An electronic device that delivers nicotine or other vaporized liquids to the person inhaling from the device, including, but not limited to, an electronic cigarette, cigar, pipe, or hookah**
- 3. Any component, part, or accessory of a tobacco product, whether or not sold separately**

This policy does not prohibit the use or possession of prescription products and other cessation aids that have been approved by the U.S. Department of Health and Human Services, Food and Drug Administration, such as nicotine patch or gum.

Smoking or use of any tobacco-related product or disposal of any tobacco-related waste is prohibited within 25 feet of any playground, except on a public sidewalk located within 25 feet of the playground. In addition, any form of intimidation, threat, or retaliation against a person for attempting to enforce this policy is prohibited. *(Health and Safety Code 104495)*

Legal Reference:

EDUCATION CODE

48900 Grounds for suspension/expulsion

48901 Prohibition against tobacco use by students

Business and Professional Coe 22950.5 Stop Tobacco Access to Kids Enforcement Act; definitions

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BUSINESS AND PROFESSIONS CODE

22950.5 Stop Tobacco Access to Kids Enforcement Act; definitions

HEALTH AND SAFETY CODE

39002 Control of air pollution from non vehicular sources

104350-104495 Tobacco use prevention, especially:

104495 Prohibition of smoking and tobacco waste on playgrounds

104559 Tobacco use prohibition

119405 Unlawful to sell or furnish electronic cigarettes to minors

LABOR CODE

3300 Employer, definition

6304 Safe and healthful workplace

6404.5 Occupational safety and health; use of tobacco products

UNITED STATES CODE, TITLE 20

6083 Nonsmoking policy for children's services

~~7111-7117~~ **-7122 Safe and Drug Free Schools and Communities Act—Student Support and Academic Enrichment Grants**

CODE OF FEDERAL REGULATIONS, TITLE 21

1140.1-1140.34 Unlawful sale of cigarettes and smokeless tobacco to minors

PUBLIC EMPLOYMENT AND RELATIONS BOARD (PERB) RULINGS

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Eureka Teachers Assn. v. Eureka City School District (1992) PERB Order #955 (16 PERC 23168)

CSEA #506 and Associated Teachers of Metropolitan Riverside v. Riverside Unified School District (1989) PERB Order #750 (13 PERC 20147)

Management Resources:

[California Department of Education, Alcohol, Tobacco and Other Drug Prevention](#)

[California Department of Education, Tobacco-Free School District Certification](#)

[California Department of Public Health, Tobacco Control](#) 

[Occupational Safety and Health Standards Board](#) 

[U.S. Environmental Protection Agency](#) 

Policy Reference UPDATE Service

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Policy MILPITAS UNIFIED SCHOOL DISTRICT

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