

MATH AND SCIENCE ACADEMY

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419 TOBACCO-FREE ENVIRONMENT; POSSESSION AND USE OF TOBACCO, TOBACCO-RELATED DEVICES, AND ELECTRONIC DELIVERY DEVICES: VAPING AWARENESS AND PREVENTION INSTRUCTION

[Note: School districts are not required by statute to have a policy addressing these issues. However, Minnesota Statutes section 144.416 requires that entities that control public places must make reasonable efforts to prevent smoking in public places, including the posting of signs or any other means which may be appropriate. Additionally, Minnesota Statutes section 120B.238 requires that vaping prevention instruction be provided as set forth in this policy.]

I. FINDINGS

- A. Tobacco use is the single most preventable cause of death in the United States.¹
- B. The use of tobacco products by the nation's children is a pediatric disease of considerable proportions that results in new generations of tobacco-dependent children and adults.²
- C. In Minnesota, smoking causes 5,500 deaths annually, and costs nearly \$2 billion in health care costs.³
- D. Children are exposed to substantial and unavoidable tobacco advertising that leads to favorable beliefs about tobacco use, plays a role in leading young people to overestimate the prevalence of tobacco use, and increases the number of young people who begin to use tobacco.⁴

¹ CENTERS FOR DISEASE CONTROL AND PREVENTION, TOBACCO CONTROL STATE HIGHLIGHTS 2010,1-2 (2010), available at http://www.cdc.gov/tobacco/data_statistics/state_data/state_highlights/2010/pdfs/highlights2010.pdf.

² Substance Abuse and Mental Health Services Administration (SAMHSA), Results from the 2008 National Survey on Drug Use and Health: Detailed Tables (2008), available at <http://www.oas.samhsa.gov/NSDUH/2K8NSDUH/tabs/Sect4peTabs10to11.pdf>.

³ Centers for Disease Control and Prevention, *State-Specific Smoking-Attributable Mortality and Years of Potential Life Lost – United States, 2000-2004*, 58 MORBIDITY AND MORTALITY WKLY. REP 29 (2009), available at <http://www.cdc.gov/mmwr/pdf/wk/mm5802.pdf>; CENTERS FOR DISEASE CONTROL AND PREVENTION SUSTAINING STATE PROGRAMS FOR TOBACCO CONTROL, DATA HIGHLIGHTS, 2006 (2006), available at http://www.cdc.gov/tobacco/data_statistics/state_data/data_highlights/2006/sections/index.htm.

⁴ Joseph R. DiFranza et al., *Tobacco Promotion and the Initiation of Tobacco Use: Assessing the Evidence for Causality* 117 PEDIATRICS e1237 (2006) available at <http://pediatrics.aappublications.org/cgi/reprint/117/6/e1237>.

- E. Electronic cigarettes can increase nicotine addiction among young people and may lead children to try other tobacco products that are known to cause disease and lead to premature death.⁵
- F. Imitation tobacco products may lead children to use tobacco by desensitizing them to the dangers of tobacco and advancing the false idea of tobacco use as socially acceptable.⁶
- G. Evidence has shown anti-tobacco use campaigns sponsored by the tobacco industry do not prevent youth from using tobacco products, and may encourage youth to smoke and create positive associations with the tobacco industry.⁷

II. PURPOSE

The purpose of this policy is to maintain a learning and working environment that is tobacco free.

III. GENERAL STATEMENT OF POLICY

- A. A violation of this policy occurs when any student, teacher, administrator, other school personnel of the Math and Science Academy (MSA), or person smokes or uses tobacco, tobacco-related devices, or carries or uses an activated electronic delivery device in a public school. This prohibition extends to all facilities, whether owned, rented, or leased, and all vehicles that MSA owns, leases, rents, contracts for, or controls. In addition, this prohibition includes vehicles used, in whole or in part, for work purposes, during hours of school operation, if more than one person is present. This prohibition also includes personal vehicles of students, staff, and non-student adults. This prohibition includes all MSA property and all off campus events sponsored by the MSA.
- B. A violation of this policy occurs when any elementary school, middle school, or secondary school student possesses any type of tobacco, tobacco-related device, or electronic delivery devices in a public school. This prohibition extends to all facilities, whether owned, rented, or leased, and all vehicles that a MSA owns, leases, rents, contracts for, or controls and includes vehicles used, in whole or in part, for school purposes, during hours of school operation, if more than one person is present. This prohibition includes all MSA property and all off-campus events sponsored by MSA.

⁵ U.S. FOOD AND DRUG ADMINISTRATION, FDA WARNS OF HEALTH RISKS POSED BY E-CIGARETTES (2009), available at <http://www.fda.gov/ForConsumers/ConsumerUpdates/ucm173401.htm>.

⁶ Jonathan D. Klein & Steve St. Clair, *Do Candy Cigarettes Encourage Young People to Smoke?*, 321 BRIT. MED. J. 362 (2000), available at <http://www.bmj.com/cgi/content/full/321/7257/362>.

⁷ National Cancer Institute, Tobacco Control Monograph No. 19: The Role of the Media in Promoting and Reducing Tobacco Use (2008), available at http://cancercontrol.cancer.gov/tcrb/monographs/19/m19_complete.pdf; AMERICAN LEGACY FOUNDATION, FIRST LOOK REPORT 9: GETTING TO THE TRUTH: ASSESSING YOUTHS' REACTIONS TO THE TRUTH AND „THINK. DON'T SMOKE“ TOBACCO COUNTERMARKETING CAMPAIGNS (2002), available at http://www.legacyforhealth.org/PDFPublications/fl_9.pdf.

- C. MSA will act to enforce this policy and to discipline or take appropriate action against any student, teacher, administrator, school personnel, or person who is found to have violated this policy.
- D. MSA will not solicit or accept any contributions or gifts of money, curricula, materials, or equipment from companies that directly manufacture and are identified with tobacco products, tobacco-related devices, or electronic delivery devices. MSA will not promote or allow promotion of tobacco products or electronic delivery devices on school property or at school-sponsored events.

IV. TOBACCO AND TOBACCO-RELATED DEVICES AND VAPING DEFINITIONS

- A. “Electronic delivery device” means any product containing or delivering nicotine, lobelia, or any other substance, whether natural or synthetic, intended for human consumption through inhalation of aerosol or vapor from the product. Electronic delivery devices includes but is not limited to devices manufactured, marketed, or sold as electronic cigarettes, electronic cigars, electronic pipe, vape pens, modes, tank systems, or under any other product name or descriptor. Electronic delivery device includes any component part of a product, whether or not marketed or sold separately. Electronic delivery device excludes drugs, devices, or combination products, as those terms are defined in the Federal Food, Drug, and Cosmetic Act, that are authorized for sale by the United States Food and Drug Administration.
- B. “Heated tobacco product” means a tobacco product that produces aerosols containing nicotine and other chemicals which are inhaled by users through the mouth.
- C. “Tobacco or Tobacco Product” means cigarettes and any product containing, made, or derived from tobacco that is intended for human consumption, whether chewed, smoked, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, or any component, part, or accessory of a tobacco product including, but not limited to, cigars; cheroots; stogies; perique; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff; snuff flour; cavendish; plug and twist tobacco; fine cut and other chewing tobacco; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco. Tobacco products exclude any drugs, devices, or combination products, as those terms are defined in the Federal Food, Drug, and Cosmetic Act, that are authorized for sale by the United States Food and Drug Administration.
- D. “Tobacco-related devices” means cigarette papers or pipes for smoking or other devices intentionally designed or intended to be used in a manner which enables the chewing, sniffing, smoking, or inhalation of aerosol or vapor of tobacco or tobacco products. Tobacco related devices include components of tobacco-related devices which may be marketed or sold separately.
- E. "Imitation tobacco product" means any non-tobacco product designed to resemble a tobacco product including any edible or non-edible, non-tobacco product designed to

resemble a tobacco product that is intended to be used by children as a toy. Examples of imitation tobacco products include but are not limited to: candy or chocolate cigarettes, bubble gum cigars, shredded bubble gum resembling chewing tobacco, shredded beef jerky in containers resembling snuff tins, plastic cigars, and puff cigarettes.

- F. "Electronic cigarette" means any oral device that provides a vapor of liquid nicotine, lobelia, and/or other substance, and the use or inhalation of which simulates smoking. The term shall include any such devices, whether they are manufactured, distributed, marketed or sold as e-cigarettes, e-cigars, e-pipes, or under any other product name or descriptor.
- G. "Vaping" means using an activated electronic delivery device or heated tobacco product."
- H. "Smoking" means inhaling exhaling burning, or carrying any lighted or heated cigar, cigarette, pipe, or any other lighted or heated product containing, made, or derived from nicotine, tobacco, marijuana, or other plant, whether natural or synthetic, that is intended for inhalation. Smoking includes carrying or using an activated electronic delivery device.
- I. "Off-campus, school-sponsored event" means any event sponsored by the school or school district that is not on school property, including but not limited to, sporting events, day camps, field trips, entertainment seminars, dances or theatrical productions.
- J. "Staff" means any person employed by MSA as full or part-time, or any position contracted for or otherwise employed, with direct or indirect monetary wages or profits paid by MSA or anyone working on a volunteer basis. This term includes, but is not limited to: faculty, service personnel, volunteers, chaperones, and others working for MSA.
- K. "Student" means any person enrolled in MSA's educational system.
- L. "Visitor" means any person subject to this policy that: is not a student, staff, or administrator as defined above.

V. EXCEPTIONS

- A. A violation of this policy does not occur when a Native American adult lights tobacco on MSA's property as a part of a traditional Native American spiritual or cultural ceremony. A Native American is a person who is a member of a Native American tribe as defined under Minnesota law.
- B. It shall not be a violation of this policy for tobacco products, tobacco-related devices, imitation tobacco products, lighters, or electronic cigarettes to be included in instructional or work-related activities in MSA school buildings if the activity is conducted by a staff member or an approved visitor and the activity does not include smoking, chewing, or otherwise Ingesting the product.

- C. A violation of this policy does not occur when a student or an adult nonstudent possesses a tobacco or nicotine product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product, as a tobacco dependence product, or for other medical purposes, and is being marketed and sold solely for such an approved purpose. Nothing in this exception authorizes smoking or use of tobacco, tobacco-related devices, or electronic delivery devices on school property or at off-campus events sponsored by MSA.

VI. ~~V~~VAPING AWARENESS AND PREVENTION INSTRUCTION

- A. MSA must provide vaping prevention instruction at least once to students in grades 6 through 8.
- B. MSA may use instructional materials based upon the Minnesota Department of Health's school e-cigarette toolkit or may use other smoking prevention instructional materials with a focus on vaping and the use of electronic delivery devices and heated tobacco products. The instruction may be provided as part of the school district's locally developed health standards.
- C. In addition, MSA may choose to require (a) evidence-based vaping prevention instruction to students in grades 9 through 12; and/or (b) a peer-to-peer education program to provide vaping prevention instruction.

VII. ENFORCEMENT

- A. The success of this policy will depend upon the thoughtfulness, consideration, and cooperation of both tobacco-users and non-users. All individuals on school premises including students, staff, administrators, and visitors share in the responsibility for adhering to and enforcing this policy.
- B. Students who violate this tobacco-free policy shall be subject to MSA's discipline procedures.
- C. MSA directors and other school personnel who violate this tobacco-free policy shall be subject to MSA's discipline procedures (Policy 504).
- D. MSA's action taken for violation of this policy will be consistent with requirements of staff and student handbooks, Minnesota or federal law, and MSA's policies (Policy 504).
- E. Persons who violate this tobacco-free policy may be referred to the director or other MSA supervisory personnel responsible for the area or program at which the violation occurred.

- F. Visitors who are observed violating this policy shall be asked to comply with MSA's tobacco-free policy. If the visitor fails to comply with the request, his or her violation of the policy may be referred to the building administrator or other MSA supervisory personnel available. The administrator shall make a decision on further action that may include a directive to leave school property, including forfeiture of any fee charged for admission to a school-sponsored event. Repeated violations may result in a recommendation to the Executive Director to prohibit the individual from entering school district property for a specified period of time. If they refuse to leave, the police may be called.
- G. The Executive Director may call the local law enforcement agency to assist with enforcement of this policy. Smoking or use of any tobacco product in a public school is a violation of the Minnesota Clean Indoor Air Act and/or the Freedom to Breathe Act of 2007 and is a petty misdemeanor. A court injunction may be instituted against a repeated violator.
- H. No persons shall be discharged, refused to be hired, penalized, discriminated against, or in any manner retaliated against for exercising any right to a smoke- free environment provided by the Freedom to Breathe Act of 2007 or other law.

VII. OPPORTUNITIES FOR CESSATION PROGRAMS

- A. Administrators shall consult with the county health department or other appropriate health and allied community-based organizations to provide students, staff, and administrators with information and access to support systems, programs, and services to encourage them to abstain from the use of tobacco products.
- B. Administrators shall identify and offer programs and services for staff that use tobacco products to support them in complying with this policy.

VIII. DISSEMINATION OF POLICY

- A. This policy shall appear in the student handbook.
- B. MSA will develop a method of discussing this policy with students and employees.

Legal References: Minn. Stat. § 120B.238 (Vaping Awareness and Prevention)
Minn. Stat. §§ 144.411-144.417 (Minnesota Clean Indoor Air Act)
Minn. Stat. § 609.685 (Sale of Tobacco to Persons Under Age 21)
2007 Minn. Laws Ch. 82 (Freedom to Breathe Act of 2007)

Cross References: MSA Policy 506 (Student Discipline)