

# McCloud Union School District

Shelley Cain, Superintendent-Principal

P.O. Box 700

McCloud, California 96057

530-964-2133

FAX 964-2153

## **Tobacco-Free Schools - Business and Non-instructional Operations**

BP 3513.3

Note: *Health and Safety Code* 104420 **mandates** districts receiving Tobacco-Use Prevention Education (TUPE) funds to adopt a tobacco-free schools policy that prohibits the use of tobacco anytime, anywhere in district-owned or leased buildings, on district property, and in district vehicles. Such districts must certify compliance with this requirement by submitting a California Department of Education (CDE) certification form and supporting documentation to the county office of education's TUPE coordinator by July 1 in order to apply for TUPE funding for that fiscal year. The certification process also requires submission of the district's written policy and enforcement procedures; see the accompanying administrative regulation for enforcement procedures.

At their discretion, districts that do not receive TUPE funds may modify this policy to limit the prohibition against smoking to only enclosed spaces, pursuant to Labor Code 6404.5 and 20 USC 6083.

The Governing Board recognizes that the health hazards associated with smoking and the use of tobacco products, including the breathing of second-hand smoke, are inconsistent with its goal 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 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; *Labor Code* 6404.5; 20 USC 6083)

This prohibition applies 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)*

Note: State law does not define "tobacco products" for purposes of the district's tobacco-free schools policy. The CDE's web site recommends that a district's policy define "tobacco products" to include products containing tobacco or nicotine, including nicotine delivery devices such as electronic cigarettes, electronic hookah, and other vapor-emitting devices.

The products prohibited include any product containing tobacco or nicotine, including, but not limited to, cigarettes, cigars, miniature cigars, smokeless tobacco, snuff, chew, clove cigarettes, betel, electronic cigarettes, electronic hookahs, and other vapor-emitting devices, with or without nicotine content, that mimic the use of tobacco products.

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

### *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  
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  
7100-7117 Safe and Drug Free Schools and Communities Act

### CODE OF FEDERAL REGULATIONS, TITLE 21

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

### PERB RULINGS

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)