Tobacco-Use Prevention - Students

BP 5131.62

Note: The following optional policy may be revised to reflect district practice. *Education Code* 48901 requires any district maintaining a high school to take all steps deemed practical to discourage high school students from smoking. Tobacco-use prevention resources generally encourage prevention efforts to begin as early as possible, including in the middle or elementary grades.

The state's Tobacco-Use Prevention Education (TUPE) competitive grant program for grades 6-12 (*Health and Safety Code* 104350-104495) provides support for local tobacco-use prevention and intervention programs.

The Governing Board recognizes that tobacco use presents serious health risks and desires to provide support and assistance in reducing the number of students who begin or continue to use tobacco. The Superintendent or designee shall establish a comprehensive program that includes consistent enforcement of laws prohibiting tobacco possession and use by students, tobacco-use prevention education including youth development activities, and intervention and cessation activities and/or referrals.

*(cf. 5141.23 - Asthma Management)*

**Prohibition Against Tobacco Use**

Note: State and federal law restrict the sale and distribution of cigarettes and smokeless tobacco to minors under age 18 (*Penal Code* 308; 21 CFR 1041.1-1041.34). *Health and Safety Code* 119405, added by SB 882 (Ch. 312, Statutes of 2010), makes it unlawful for a person to sell or otherwise furnish an electronic cigarette to a minor. *Education Code* 48900 and 48901 prohibit students from possessing, smoking, or using tobacco on school grounds, as provided in the following paragraph. Pursuant to *Education Code* 48900, students who violate this prohibition may be subject to suspension or expulsion; see AR 5144.1 - Suspension and Expulsion/Due Process. In addition, *Health and Safety Code* 104420 mandates that any district receiving funding through the TUPE program adopt and enforce a tobacco-free schools policy which prohibits the use of tobacco products in district buildings, on district property, and in district vehicles by any person at any time; see BP 3513.3 - Tobacco-Free Schools for language implementing this mandate.

Students shall not possess, smoke, or use tobacco or any product containing tobacco or nicotine while on campus, while attending school-sponsored activities, or while under the supervision and control of district employees. Prohibited products include, but are not limited to, cigarettes, cigars, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew packets, and betel. *Education Code*
48900, 48901)

(cf. 3513.3 - Tobacco-Free Schools) (cf. 5131 - Conduct) (cf. 5144 - Discipline) (cf. 5144.1 - Suspension and Expulsion/Due Process) (cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))

Students' possession or use of nicotine delivery devices, such as electronic cigarettes, is also prohibited. These prohibitions do not apply to a student's possession or use of his/her own prescription products. *(Education Code 48900, 48901)*

**Prevention Instruction**

Note: The following optional section may be revised to reflect district practice and the grade levels offered by the district. *Education Code* 51202 requires the district to offer a course of study at the appropriate elementary and secondary grade levels that includes the effects of tobacco upon the human body. *Education Code* 51202 also requires that the course of study in secondary grades include instruction on the effects of tobacco upon prenatal development. See AR 6143 - Courses of Study. The state's content standards for health education include a number of standards at selected grade levels from K-12 related to the health consequences of tobacco use.

The TUPE program provides resources for supplemental instruction in grades 6-12 that addresses specified topics; see the accompanying administrative regulation. The California Department of Education's (CDE) Guidelines for Tobacco Prevention, contained in its Getting Results publication, recommend developmentally appropriate instruction in grades K-12, with instruction that is especially intensive in grades 6-9 (particularly the transition year from elementary to middle school/junior high) and is reinforced in high school.

The district shall provide developmentally appropriate tobacco-use prevention instruction for students at selected grade levels from K-12. Such instruction shall be aligned with state content standards and the state curriculum framework for health education and with any requirements of state and/or federal grant programs in which the district participates.

*(cf. 6142.8 - Comprehensive Health Education) (cf. 6143 - Courses of Study)*

**Intervention/Cessation Services**

Note: The following optional section may be revised to reflect district practice. Pursuant to *Health and Safety Code* 104420 and 104460, districts receiving TUPE funds must provide students with access to intervention and cessation services and must provide pregnant and parenting minors with access to designated services. The district may fulfill these requirements either through the direct provision of services or through referrals to available services. See the
accompanying administrative regulation.

The district may provide or refer students to counseling, intensive education, and other intervention services to assist in the cessation of tobacco use. When appropriate, such intervention services may be provided as an alternative to suspension for tobacco possession.

(cf. 1020 - Youth Services) (cf. 5146 - Married/Pregnant/Parenting Students)
(cf. 5141.6 - School Health Services) (cf. 6164.2 - Guidance/Counseling Services)

Program Planning

Note: The following optional section may be revised to reflect district practice.

Health and Safety Code 104420 requires the CDE to give priority for TUPE funding to programs that, in addition to targeting current tobacco users, target students most at risk for beginning to use tobacco. Student populations considered to be "most at risk" are to be identified by the district through a local needs assessment, as provided in the following paragraph.

The district's tobacco-use prevention and intervention program shall be based on an assessment of tobacco-use problems in district schools and the community, an examination of existing services and activities in the community, and a determination of high-risk student populations that are most in need of district services.

Note: The following optional paragraph may be revised to reflect district practice. Health and Safety Code 104420 and 104435 require districts receiving TUPE funds, with assistance from the county office of education, to coordinate efforts with the "lead local agency" in the community, defined in Health and Safety Code 104400 as the county or city health department. The Superintendent or designee shall coordinate with the local health department and county office of education in program planning and implementation. He/she may establish an advisory council including students, parents/guardians, district staff, representatives of the local health department and community organizations, law enforcement professionals, and/or others with demonstrated expertise in tobacco prevention and cessation.

(cf. 1220 - Citizen Advisory Councils) (cf. 1400 - Relations Between Other Governmental Agencies and the Schools)

The Superintendent or designee also shall coordinate the district's tobacco-use prevention and intervention program with other district efforts to reduce students' use of illegal substances and to promote student wellness.

(cf. 5030 - Student Wellness) (cf. 5131.6 - Alcohol and Other Drugs) (cf. 5131.63 - Steroids)
Note: The following paragraph is for use by districts that receive TUPE funds and may be used by other districts at their discretion.

The Superintendent or designee shall select anti-tobacco programs based on the model program designs identified by the CDE and may modify the model to meet district needs. *(Health and Safety Code 104420)*

Note: Pursuant to "TUPE Acceptance of Funds Guidance" on the CDE's Web site, TUPE grant funding will not be awarded to an applicant that receives any funding or educational materials from the tobacco industry, or from any agency which has received funding from the tobacco industry, for the purpose of implementing tobacco-prevention or intervention programs.

The Superintendent or designee shall not accept for distribution any materials or advertisements that promote the use or sale of tobacco products. He/she also shall not accept tobacco-use prevention or intervention funds or materials from the tobacco industry or from any entity which has received funding from the tobacco industry.

*(cf. 1325 - Advertising and Promotion)  (cf. 3290 - Gifts, Grants and Bequests)  (cf. 6161.1 - Selection and Evaluation of Instructional Materials)*

**Program Evaluation**

Note: The following optional section may be revised to reflect district practice. Districts that accept TUPE funds are required by the CDE to administer the core California Healthy Kids Survey in the first year of funding and at least every other year thereafter to assess the health-related behavior of a representative sample of students in grades seven, nine, and eleven. In addition, districts that receive funding through TUPE are required to complete the TUPE Annual Report by June 30 of each year.

To evaluate the effectiveness of the district's program and ensure accountability, the Superintendent or designee shall biennially administer the California Healthy Kids Survey or other appropriate student survey at selected grade levels in order to assess student attitudes toward tobacco and student use of tobacco. He/she also shall annually report to the Board, and to the CDE if required, the data specified in *Health and Safety Code 104450.*

*(cf. 0500 - Accountability)  (cf. 5022 - Student and Family Privacy Rights)  (cf. 6162.8 - Research)*

The results of program evaluations shall be used to refine program goals and objectives and make changes as needed to strengthen program implementation.

**Legal Reference**

*EDUCATION CODE*
48900 Suspension or expulsion (grounds)
48900.5 Suspension, limitation on imposition; exception
48901 Smoking or use of tobacco prohibited
51202 Instruction in personal and public health and safety
60041 Instructional materials, portrayal of effects of tobacco use

HEALTH AND SAFETY CODE

104350-104495 Tobacco-use prevention education
119405 Unlawful to sell or furnish electronic cigarettes to minors

PENAL CODE

308 Minimum age for tobacco possession

CODE OF REGULATIONS, TITLE 17

6800 Definition, health assessment
6844-6847 Child Health and Disability Prevention program; health assessments

UNITED STATES CODE, TITLE 20

7111-7117 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

ATTORNEY GENERAL OPINIONS


Management Resources

California Department of Education Publications

Health Education Content Standards for California Public Schools: Kindergarten Through Grade Twelve, 2008

Health Framework for California Public Schools: Kindergarten Through Grade Twelve, 2003

Getting Results: Part II California Action Guide to Tobacco Use Prevention Education, 2000

WestEd Publications

Guidebook for the California Healthy Kids Survey

Web Sites
Note: The following optional administrative regulation reflects requirements of the state's Tobacco-Use Prevention Education (TUPE) program pursuant to Health and Safety Code 104350-104495 and may be adapted by other districts that do not receive TUPE funding.

Effective July 1, 2009, the TUPE program provides competitive grant funding for local programs targeting students in grades six through twelve. The district may modify the following administrative regulation to reflect the grades at which the district's program is offered.

The district's tobacco-use prevention program shall provide students in grades six through twelve instruction which addresses the following topics: (Health and Safety Code 104420)

- Immediate and long-term undesirable physiologic, cosmetic, and social consequences of tobacco use
- Reasons that adolescents say they smoke or use tobacco
- Peer norms and social influences that promote tobacco use
- Refusal skills for resisting social influences that promote tobacco use (cf. 5131.6 - Alcohol and Other Drugs) (cf. 6142.8 - Comprehensive Health Education) (cf. 6143 - Courses of Study)

Note: Health and Safety Code 104420 requires local TUPE programs to provide access to intervention and cessation services to high-risk groups in grades seven through twelve. The California Department of Education (CDE) has determined that these services should be directed toward current users and should be
voluntary for students. The CDE’s TUPE program application clarifies that districts are not required to directly provide the services, but may instead refer students to community services to satisfy this requirement.

As appropriate, the district shall provide or refer students in grades seven through twelve to tobacco-use intervention and cessation activities. *(Health and Safety Code 104420)*

*(cf. 1020 - Youth Services) (cf. 5141.6 - School Health Services) (cf. 6164.2 - Guidance/Counseling Services)*

These services shall be directed toward current users and shall be voluntary for students who desire assistance in ceasing the use of tobacco.

Note: The following paragraph is optional. In addition to targeting current tobacco users, *(Health and Safety Code 104420)* requires the CDE to give funding priority to programs that target students most at risk for beginning to use tobacco. Student populations considered to be "most at risk" are to be identified by the district through a local needs assessment; see the accompanying Board policy. On the TUPE application, the district must provide a description of the student population and the district's rationale for designating that population as "high risk." Examples of "high-risk" populations may include students whose parents/guardians smoke, students transitioning from one educational setting to another (e.g., middle school to high school), or students in continuation education or other nontraditional education settings.

In addition to targeting students who currently use tobacco, the district's program shall target students most at risk for beginning to use tobacco as identified through a local needs assessment.

Note: *(Health and Safety Code 104460)* requires districts receiving TUPE funds to provide access to tobacco-use prevention and intervention services to pregnant and parenting students, as provided below. The TUPE application clarifies that districts are not required to directly provide the following services, but may instead refer students to community services.

The district shall provide or refer every pregnant and parenting minor enrolled in the district to tobacco-use prevention services. Such services may be integrated with existing programs for pregnant and parenting minors and shall include: *(Health and Safety Code 104460)*

- Referral to perinatal and related support services
- Outreach services and assessment of smoking status
- Individualized counseling and advocacy services
- Motivational messages
- Cessation services, if appropriate
Incentives to maintain a healthy lifestyle
Follow-up assessment
Maintenance and relapse prevention services
(cf. 5146 - Married/Pregnant/Parenting Students)