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**FRESNO COUNTY SUPERINTENDENT OF SCHOOLS  
FRESNO COUNTY BOARD OF EDUCATION****Business and Noninstructional Operations  
TOBACCO-FREE SCHOOLS**

The Fresno County Board of Education ("County Board") and Fresno County Superintendent of Schools ("County Superintendent") recognize that the health hazards associated with smoking and the use of tobacco products, including the breathing of second-hand smoke, are inconsistent with their goal to provide a healthy environment for students and staff.

The County Board and County Superintendent prohibit smoking and/or the use of tobacco products at any time in County Superintendent-leased buildings, on County Board-owned property, and in County Superintendent-owned or leased vehicles. (Health and Safety Code 104420; Labor Code 6404.5; 20 USC 6083.)

This prohibition applies to all employees, students, and visitors at any County Board-sponsored or County Superintendent-sponsored instructional program, activity, or athletic event held on or off County Board or County Superintendent property. Any written joint use agreement governing community use of County Board or County Superintendent facilities or grounds shall include notice of this tobacco-free schools policy and consequences for violations of this policy.

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 products and disposal of any tobacco-related waste are 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.)

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Adopted: 11/18/2010

Amended: 10/17/2013, 05/17/2018

**Legal References**

Education Code

48900 Grounds for suspension/expulsion

48901 Prohibition against tobacco use by students

Business and Professions Code

22950.5 Stop Tobacco Access to Kids Enforcement Act; definitions

Health and Safety Code

39002 Control of air pollution from nonvehicular 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

7111-7122 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

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)

**Management Resources**

Web Sites

California Department of Education, Alcohol, Tobacco and Other Drug Prevention:

<http://www.cde.ca.gov/ls/he/at>

California Department of Education, Tobacco-Free School District Certification:

<http://www.cde.ca.gov/ls/he/at/tobaccofreecert.asp>

California Department of Public Health, Tobacco Control:

<http://www.cdph.ca.gov/programs/tobacco>

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Occupational Safety and Health Standards Board: <http://www.dir.ca.gov/OSHSB/oshsb.html>

U.S. Environmental Protection Agency: <http://www.epa.gov>

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