

DEPARTMENT OF EDUCATION
OFFICE OF THE SECRETARY
800 Health and Safety

877 Tobacco and Smoking Policy

1.0 Purpose

- 1.1 The purpose of this regulation is to specify for district and charter schools the elements of a required Tobacco and Smoking Policy, including specifying areas where the policy is in effect, and outlining reporting requirements and timelines.
- 1.2 This regulation aligns with 16 **Del.C.**, Chapter 29, Delaware's Clean Indoor Air Act, and 11 **Del.C.**, Chapter 5, Subchapter V.

23 DE Reg. 651 (02/01/20)

2.0 Definitions

The following words and terms, when used in this regulation, have the following meaning unless the context clearly indicates otherwise:

"Electronic Smoking Device" means any product containing or delivering nicotine or any other similar substance intended for human consumption that can be used by a person to simulate Smoking through inhalation of vapor or aerosol from the product. The term includes any such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, e-hookah, or vape pen, or under any other product name or descriptor or as this term may be amended by 16 **Del.C.** §2902.

"Smoking" means:

- a. The burning of a lighted cigarette, cigar, pipe or any other matter or substance that contains tobacco; or
- b. The use of an Electronic Smoking Device which creates an aerosol or vapor, in any manner or in any form or as this term may be amended by 16 **Del.C.** §2902.

"Tobacco Product" means:

- a. Any product that is made from or derived from tobacco or that contains nicotine, including: cigarettes, cigars, pipe tobacco, hookah tobacco, chewing tobacco, snuff, snus, or smokeless tobacco and is intended for human consumption by any means including Smoking, heating, chewing, absorbing, dissolving, inhaling, or ingesting as this term may be amended by 11 **Del.C.** §1115; or
- b. A component or accessory used in the consumption of a Tobacco Product, including filters, rolling papers, and pipes or as this term may be amended by 11 **Del.C.** §1115.

Tobacco Product does not mean a drug, device, or combination product authorized for sale by the United States Food and Drug Administration under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. §301 et seq.) or as this term may be amended by 11 **Del.C.** §1115.

"Tobacco Substitute" means:

- a. An Electronic Smoking Device employing a mechanical heating element, battery, or circuit to produce aerosol or vapor for inhalation into the body of an individual or as this term may be amended by 11 **Del.C.** §1115, or
- b. A liquid used in a device under paragraph a. above, including liquids that contain nicotine and liquids that do not contain nicotine or as this term may be amended by 11 **Del.C.** §1115.

Tobacco Substitute does not mean a drug, device, or combination product authorized for sale by the United States Food and Drug Administration under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. § 301 et seq.) or as this term may be amended by 11 **Del.C.** §1115.

23 DE Reg. 651 (02/01/20)

3.0 Required Policy

- 3.1 To improve the health of students, school personnel, and visitors, each school district and charter school in Delaware shall have a Tobacco and Smoking Policy which at a minimum:

TITLE 14 EDUCATION
DELAWARE ADMINISTRATIVE CODE

- 3.1.1 Prohibits smoking and the use of or distribution of tobacco products and electronic smoking devices in school buildings, on school grounds, in school leased or owned vehicles, even when they are not used for student purposes, and at all school affiliated functions.
- 3.1.2 Includes procedures for communicating the policy to students, school staff, parents, guardians or relative caregivers, families, visitors and the community at large.
- 3.1.3 Makes provisions for or refers individuals to voluntary cessation education and support programs that address the physical and social issues associated with nicotine addiction.

23 DE Reg. 651 (02/01/20)

4.0 The Tobacco and Smoking Policy Shall Apply to

- 4.1 Any building, property or vehicle leased, owned or operated by a school district, charter school or assigned contractor.
 - 4.1.1 School bus operators under contract shall be considered staff for this policy.
- 4.2 Any private building or other property including automobiles or other vehicles used for school activities when students and staff are present.
- 4.3 Any non-educational groups utilizing school buildings or other educational assets.
- 4.4 Any individual or a volunteer who supervises students off school grounds.

23 DE Reg. 651 (02/01/20)

5.0 No School or School District Property May Be Used for the Advertising of any Tobacco Product, Tobacco Substitute or Electronic Smoking Device

23 DE Reg. 651 (02/01/20)

6.0 Reporting Requirements and Timelines

- 6.1 Each school district and charter school shall have an electronic copy of its current Tobacco and Smoking Policy on file with the Department of Education.
- 6.2 Each school district and charter school shall provide an electronic copy of any Tobacco and Smoking Policy within ninety (90) days of such revisions regardless of whether said revisions were made as a result of changes to federal, state or local law, regulations, guidance or policies.

1 DE Reg. 1807 (05/01/98)

6 DE Reg. 1504 (05/01/03)

11 DE Reg. 1463 (05/01/08)

23 DE Reg. 651 (02/01/20)