

HVSSSC

Hudson Valley Student Support Services Center

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FACT SHEET

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Laws for Tobacco-Free Schools

NYS PUBLIC HEALTH LAW – ARTICLE 13-E, SECTION 1399 - Smoking prohibited in all NYS workplaces to protect workers from Second hand smoke.

NYS PUBLIC HEALTH LAW – ARTICLE 13-E, SECTION 1399 (CIAA) Effective July 24, 2003:
Regulation of Smoking in Public and Work Places prohibits smoking in virtually all workplaces, including restaurants and bars. The changes in the Act reflect the state's commitment to ensuring that all workers are protected from secondhand smoke. Localities may continue to adopt and enforce local laws regulating smoking. However, these regulations must be at least as strict as the Clean Indoor Air Act.

The Act defines:

5. **"Place of employment"** means any indoor area or portion thereof under the control of an employer in which employees of the employer perform services, and shall include, but not be limited to, offices, **school grounds**, . . .
6. **"School grounds"** means any building, structure, and surrounding outdoor grounds contained within a public or private pre-school, nursery school, elementary or secondary school's legally defined property boundaries as registered in a county clerk's office, and any vehicles used to transport children or school personnel.

The Act states that:

1399-o.

Smoking shall not be permitted and that no person shall smoke in the following indoor areas...

1. Places of employment [includes school grounds]
13. All public and private colleges, universities and other educational and vocational institutions;

1399-p 1.

Posting of Signs: "Smoking" or "No Smoking" signs, or the international "No Smoking" Symbol, which consists of a pictorial representation of a burning cigarette enclosed in a circle with a bar across it, shall be prominently posted and properly maintained where smoking is regulated by this article, by the owner, operator, manager or other person having control of such area.

1399-t 1.

Enforcement: For the purpose of this article the term "enforcement officer" shall mean the board of health of a county ...

1399-t 4.

Enforcement: The owner, manager, operator, or other person having control of any area subject to the provisions of this article, shall inform, or shall designate an agent who shall be responsible for informing individuals smoking in an area in which smoking is not permitted that they are in violation of this article.

NYS EDUCATION LAW – ARTICLE 9, SECTION 409 supersedes other tobacco use prohibition laws because of "no tobacco use," not just smoking on school grounds.

NYS EDUCATION LAW - ARTICLE 9, SECTION 409

School building regulations in relation to health and safety

1. All school buildings of common, union free, central, central high school and city school districts other than city school districts of cities having one hundred twenty-five thousand inhabitants or more and boards of cooperative educational services shall comply with such regulations as the commissioner shall adopt from time to time for the purpose of **insuring the health and safety of pupils and staff in relation to proper heating, lighting, ventilation, sanitation and health, fire and accident protection.**
2. Notwithstanding the provisions of any other law, rule or regulation, **tobacco use shall not be permitted and no person shall use tobacco on school grounds.** "School grounds" means any building, structure and surrounding outdoor grounds contained within a public or private pre-school, nursery school, elementary or secondary school's legally defined property boundaries as registered in a county clerk's office.

NYS EDUCATION LAW – ARTICLE 17, SECTION 804: Instructional requirements to discourage misuse and abuse of tobacco.

NYS EDUCATION LAW – ARTICLE 17, SECTION 804:

All schools must include, as an integral part of health education, instruction so as to discourage the misuse and abuse of alcohol, tobacco, and other drugs and promote attitudes and behavior that enhance health, well being, and human dignity . . . in Kindergarten through 12th grade.

NYS Education Law - Article 17, Section 804-a requires instruction in methods of prevention of certain cancers (use of **tobacco** has proven to cause some cancers).

ADOLESCENT TOBACCO USE PREVENTION ACT (ATUPA): In 1992, amended 1997 and 2000, NYS enacted ATUPA requiring retailers to obtain positive proof that the person buying cigarettes is over the age of 18. Suffolk County raised the age to 19. Retailers found in violation of this law are subject to fines, and loss of their tobacco registration and lottery license for repeated violations. The law also limits the location of vending machines and limits the venues in which free tobacco products can be distributed. These measures are aimed at making tobacco products less accessible to minors.

PUBLIC HEALTH LAW, ARTICLE 13F, SECTION 1399-gg: prohibits the manufacture, distribution, or sale of packages containing fewer than 20 cigarettes in New York State, thereby eliminating 10 packs or single cigarettes (loosies).

New York Vehicle and Traffic Law Section 142 - School Bus.

COMMISSIONER'S REGULATIONS - SUBCHAPTER G, PART 135.3 HEALTH EDUCATION: Instructional requirements to discourage misuse and abuse of tobacco.

COMMISSIONER'S REGULATIONS - SUBCHAPTER G, PART 135.3 HEALTH EDUCATION: a) *Provision for health education.* It shall be the duty of the trustees and boards of education to provide a satisfactory program in health education in accordance with the needs of pupils in all grades. This program shall include, but shall not be limited to, instruction concerning the misuse of alcohol, tobacco and other drugs.

All the above state laws correspond with and fulfill federal regulations. Federal laws provide support for programs preventing... use of tobacco...and no... smoking

NO CHILD LEFT BEHIND (NCLB Enacted 2001):
Title IV, Part A: Safe and Drug-Free Schools and Communities Act: The purpose of this part is to support programs that prevent violence in and around schools; that prevent the illegal use of alcohol, tobacco, and drugs; that involve parents and communities, and that are coordinated with related federal, state, school, and community efforts to foster a safe and drug-free learning environment that supports student academic achievement.

Part C – Environmental Tobacco Smoke cited as the Pro-Children Act of 2001: (an update to P-CA of 1994).
 SEC. 4303. NON-SMOKING POLICY FOR CHILDREN'S SERVICES. (a) PROHIBITION - After the date of enactment of the No Child Left Behind Act of 2001, no person shall permit smoking within any indoor facility owned or leased or contracted for, and utilized, by such person for provision of routine or regular kindergarten, elementary, or secondary education or library services to children.

GOALS 2000 EDUCATION AMERICA ACT
SEC. 1043. NONSMOKING POLICY FOR CHILDREN'S SERVICES: PROHIBITION.--After the date of the

enactment of this Act, no person shall permit smoking within any indoor facility owned or leased or contracted for and utilized by such person for provision of routine or regular kindergarten, elementary, or secondary education or library services to children.

(f) CIVIL PENALTIES.--

(1) IN GENERAL.--Any failure to comply with a prohibition in this section shall be a violation of this section and any person subject to such prohibition who commits such violation may be liable to the United States for a civil penalty in an amount not to exceed \$1,000 for each violation, or may be subject to an administrative compliance order, or both, as determined by the Secretary. Each day a violation continues shall constitute a separate violation. In the case of any civil penalty under this section, the total amount shall not exceed the amount of Federal funds received by such person for the fiscal year in which the continuing violations occurred. For the purpose of the prohibition in subsection (c), the term "person" shall mean the head of the applicable Federal agency or the contractor of such agency providing the services to children.

Law Section Resources:

1. http://www.emsc.nysed.gov/rscs/chaps/SDFSCA/SDFSCA_Webpage.htm -Student Support Services part of NYSED Office of School Improvement and Community Services (Regional) Safe and Drug-Free Schools and Communities Act/No Child Left Behind
2. <http://www.health.state.ny.us/nysdoh/smoking/tobguide.htm> - NYS DOH: A Guide for Tobacco Merchants (effective 10/21/02)
3. http://www.health.state.ny.us/nysdoh/clean_indoor_air_act/ciaalaw.htm - NYS DOH: Clean Indoor Air Act: Regulation of Smoking in Public and Work Places
4. <http://www.ed.gov/policy/elsec/leg/esea02/pg56.html> -Part C - Environmental Tobacco Smoke cited as the Pro-Children Act of 2001
5. <http://www.ed.gov/policy/elsec/leg/esea02/pg51.html> -Title IV - 21st Century Schools: Part A, Safe and Drug-Free Schools and Communities Act
10. <http://www.ed.gov/legislation/GOALS2000/TheAct/sec1043.html>