

# Smoking and Tobacco Use

## Policy Q & A



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This policy Q & A addresses the legal requirements for schools related to tobacco use in school.

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### Is smoking or tobacco use by minors permitted in Nebraska?

A minor who uses tobacco in any form is guilty of a Class V misdemeanor (Neb. Rev. State. 28-1418 (1977)). Any person who sells or furnishes tobacco products to a minor is guilty of a Class III misdemeanor for each offense. (Neb. Rev. State. 28-1419 (1977)). Therefore, it is illegal for students under age 18 to use tobacco products in school or anywhere, and for anyone to furnish tobacco products to children under 18.

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### Is smoking on school grounds by students or adults prohibited under Nebraska Law?

Under the Nebraska Clean Indoor Air Act, smoking in public buildings is not allowed. The purpose of this law is to protect the public health and welfare by prohibiting smoking in public places and places of employment. It does permit smoking outside public buildings under very limited circumstances. If the Nebraska Clean Indoor Air Act is violated, that person is guilty of a Class V misdemeanor for the first offense and a Class IV misdemeanor for additional offenses. The person could also opt to take a smoking cessation class approved by the Nebraska Department of Health and Human Services at his/her own expense. If the program is successfully completed the charge will be dismissed ([Neb. Rev. Stat. 71-5733\(1\)](#)).

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### Can students smoke e-cigs in school?

A Nebraska law has just taken effect, which expands the regulation of tobacco products to include “alternative nicotine products” and “vapor products”, which would include e-cigarettes ([Neb. Rev. Stat. 28-1418](#)). As a result, these items are now regulated in the same way as tobacco products and cannot be purchased or used by minors anywhere. The Nebraska law, which went into effect April 10, 2014, makes it a [misdemeanor](#) for people under 18 to use alternative nicotine products or vapor products.

Before the law was approved, [Elkhorn](#), Millard, and Papillion-La Vista enacted a school policy that prohibited smoking e-cigs at school by staff, parents, and students. With the passing of the law, many schools will add policies prohibiting e-cigs from school property.

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### **Is use of tobacco products also banned by school policies?**

In a 1993 study, many school districts simply have a policy in their code of conduct that smoking on school grounds is prohibited ([Hopp, Burklund, Horton, 1993](#)). Since the implementation of the Nebraska Clean Indoor Air Act in 2009, it is likely that almost all districts have such policies but data to confirm that is unavailable. New legislation in 2014 will broaden the tobacco ban to include “alternative nicotine” and “vapor” products and will likely result in many schools updating their policies.

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### **Can schools suspend or expel students for possessing or using tobacco products?**

Under section [79-267\(10\)](#) a student can be suspended or expelled for engaging in any activity that constitutes a danger to other students or interferes with school purposes. This includes use of tobacco products. Therefore, schools do have the ability to discipline students with suspension or expulsion for smoking or other tobacco use (including the alternative nicotine or vapor products) although these specific consequences are not mandated.

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### **Can schools call the police to enforce tobacco laws?**

While technically schools could call the police to address these types of incidents, police departments do not consider this type of enforcement to be a priority, and most schools choose to handle these issues with school disciplinary procedures. However, if students are smoking a controlled substance, schools are required under illicit drug laws to report the incident to the police.

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