

# Pacific Grove Unified School District

Business

Policy #3513.3

## TOBACCO-FREE SCHOOLS/SMOKING

Mandated Policy

The Governing Board recognizes that the health hazards associated with smoking and the use of tobacco products, including the breathing of second-hand smoke, are inconsistent with its goal to provide a healthy environment for students and staff.

The Board further prohibits the use of tobacco products at any time in district-owned or leased buildings, on district property, and in district vehicles. (*Health and Safety Code 104420; Labor Code 6404.5; 20 USC 6083*). This prohibition applies to all employees, students, and visitors at any school-sponsored instructional program, activity or athletic event on or off district property. Any written joint use agreement governing community use of district facilities or grounds shall include notice of the district's tobacco-free schools policy and consequences for violations of the policy.

“Smoking” means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, pipe, tobacco or plant product intended for inhalation, whether natural or synthetic, in any manner or in any form and includes the use of an electronic smoking device that creates an 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 product or disposal of any tobacco-related waste is 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*)

### Legal Reference

*BUSINESS AND PROFESSIONS CODE*

22950.5 Stop Tobacco Access to Kids Enforcement Act

*EDUCATION CODE*

48900 Grounds for suspension/expulsion

48901 Prohibition against tobacco use by students

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### *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

### *PENAL CODE*

308 Unlawful to sell or furnish tobacco products 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)

# Pacific Grove Unified School District

## TOBACCO-FREE SCHOOLS/NONINSTRUCTIONAL OPERATIONS

### Notifications

The Superintendent or designee may disseminate this information through annual written notifications, district and school web sites, student and parent handbooks, and/or other appropriate methods of communication.

Signs stating "Tobacco use is prohibited" shall be prominently displayed at all entrances to school property. (Health and Safety Code 104420)

### Enforcement/Discipline

Pursuant to Labor Code 6404.5, no employer shall knowingly or intentionally permit the smoking of tobacco products in an enclosed space at a place of employment. The effects of the district's tobacco policy, including any disciplinary action taken against employees resulting from the enforcement of the policy, may be subjects of negotiation between the Governing Board and employee organizations. Pursuant to Education Code 48900(h), a student may be subject to disciplinary action when it is determined that he/she possessed or used tobacco or nicotine products; see AR 5144.1 - Suspension and Expulsion/Due Process.

Any employee or student who violates the district's tobacco-free schools policy shall be asked to refrain from smoking and shall be subject to disciplinary action as appropriate.

Labor Code 6404.5 requires the district to take "reasonable steps" to prevent smoking by nonemployees. These reasonable steps include posting clear and prominent signs as specified in the "Notifications" section above and requesting that the nonemployee refrain from smoking in the enclosed workplace. The following optional paragraph may be revised to reflect district practice.

Any other person who violates the district's policy on tobacco-free schools shall be informed of the district's policy and asked to refrain from smoking. If the person fails to comply with this request, the Superintendent or designee may:

- Direct the person to leave school property
- Request local law enforcement assistance in removing the person from school premises

If the person repeatedly violates the tobacco-free schools policy, prohibit him/her from entering district property for a specified period of time.

The Superintendent or designee shall not be required to physically eject a nonemployee who is smoking or to request that the nonemployee refrain from smoking under circumstances involving a risk of physical harm to the district or any employee. (Labor Code 6404.5)