

What Do the Laws Say About Tobacco In Schools?

EXCERPTS FROM FEDERAL AND STATE LAWS

Text, including numbering, comes directly from the original source.

UNITED STATES DEPARTMENT OF EDUCATION NO CHILD LEFT BEHIND ACT OF 2001¹

Part C. Section 4303. Nonsmoking 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.

NEW YORK EDUCATION LAW

Article 9, Section 409. School building regulations in relation to health and safety.²

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.

Article 17, Section 804. Health education regarding alcohol, drugs and tobacco abuse. . . .³

1. All schools shall 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.

2. Instruction regarding alcohol, tobacco, and other drugs shall be included in the health education provided for all elementary school pupils and shall be taught by the regular classroom teachers or by teachers certified to teach health education. . . .

3. Instruction regarding alcohol, tobacco, and other drugs . . . in the junior high school grades and the senior high schools, shall be an integral part of a required health education course at each of these levels in the secondary schools curriculum.

Commissioner's Regulations, Subchapter G Part 135, Section 135.3 Health Education⁴

(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.

NEW YORK PUBLIC HEALTH LAW

NEW YORK STATE CLEAN INDOOR AIR ACT, 2003⁵

Article 13-E. Section 1399-n. Definitions. For purposes of this article: . . .

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. . . and company vehicles.

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.

⊕ **Section 1399-o: Smoking Restrictions.** Smoking shall not be permitted and no person shall smoke in the following indoor areas:

1. places of employment;
13. all public and private colleges, universities and other educational and vocational institutions;

⊕ **Section 1399-p: Posting of Signs.**

1. "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.

¹ United States Department of Education, PL 107-110, No Child Left Behind Act of 2001, Title IV 21st Century Schools, Part C – Environmental tobacco smoke. Available at www.ed.gov/policy/elsec/leg/esea02/index.html.

² Laws of New York, Education, Article 9, Section 409. School building regulations in relation to health and safety. Available at <http://public.leginfo.state.ny.us/menuf.cgi>.

³ Laws of New York, Education, Article 17, Section 804. Health education regarding alcohol, drugs, tobacco abuse and the prevention and detection of certain cancers. Available at <http://public.leginfo.state.ny.us/menuf.cgi>.

⁴ New York State Department of Education, Commissioner's Regulations, Subchapter G Part 135, Section 135.3(a). Provision of health education. Available at www.emsc.nysed.gov/sss/Laws-Regs/.

⁵ Laws of New York, Public Health, Article 13-E. Regulation of smoking in certain public areas. Available at <http://public.leginfo.state.ny.us/menuf.cgi>.