



Regulation of the Chancellor

Category: PERSONNEL

Number: C-810

Subject: SMOKE-FREE ENVIRONMENT POLICY

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Issued: 5/3/05

SUMMARY OF CHANGES

This regulation replaces and supersedes C-810 dated 9/5/00. The New York City Smoke-Free Air Act of 2002, effective March 30, 2003, prohibits smoking in **all** city offices, on city property (including school grounds), and in city vehicles.

Changes:

- Use of any tobacco product, including chewing tobacco, is always prohibited in all school buildings, office buildings, structures, grounds and facilities under the jurisdiction of the Department of Education in which children are provided instruction, and employees work, including the provision of related services.
- Smoking is also prohibited in any motor vehicle owned, operated or leased by the Department of Education which is used to transport students or Department of Education personnel.
- Smoking is prohibited in areas of any building for educational use to which employees, students and the public are allowed, including but not limited to restrooms, stairwell, etc.
- Smoking is prohibited in employee cafeterias, lunchrooms and lounges.
- Smoking is prohibited in employee work areas of any building used for administrative use only.
- Smoking is prohibited on all school grounds and other DOE outdoor facilities, including playing fields, school yards, entrances and exits to buildings, parking lots, and the like.
- Teachers are reminded that they serve as role models for students, and as such should refrain from smoking on the sidewalks in front of school buildings.



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ABSTRACT

A Smoke-Free Environment Policy has been developed to comply with the New York City Smoke-Free Air Act (Title 17, Chapter 5 of the Administrative Code of the City of New York) and New York State Clean Indoor Air Act (Article 13-E of the New York State Public Health Law), and to protect all students, employees and visitors from secondhand smoke. The policy set forth below is effective for all New York City Department of Education locations.

Administrative Code, Title 17, section 17-622, has prohibited the use of tobacco products on school premises since April 1993. In addition, it is strictly prohibited for staff and students 18 years old or older to purchase tobacco products for or provide them to any student under the age of 18.

I. SMOKE-FREE ENVIRONMENT POLICY

All areas of the New York City Department of Education are now smoke-free without exception. Smoking, or use of any tobacco product, including chewing tobacco, is not permitted anywhere within the Department of Education, including all indoor and outdoor facilities and city vehicles. Smoking is not permitted in private enclosed offices, conference and meeting rooms, cafeterias, lunchrooms, or employee lounges. Smoking is not permitted anywhere on school grounds and other DOE outdoor facilities including playing fields, schoolyards, entrances and exits to buildings, parking lots, etc. Smoking is prohibited by employees while they are on duty supervising children, whether they are on or off school grounds.

II. COMPLIANCE

Compliance with the Smoke-Free Environment Policy is mandatory for all students, employees and persons visiting Department of Education facilities and property. There are no exceptions. Employees who violate this policy are subject to disciplinary action.

Smoking by students is also prohibited and is a Level 2 Infraction (A10 for grades K-5; B12 for grades 6-12) under the Department of Education Student Discipline Code.



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III. IMPLEMENTATION OF POLICY AND REGULATIONS

- A. Each official in charge of an office, or principal of a school, or his/her designee in a school building shall take the following actions:
1. Post “**NO SMOKING**” signs prominently throughout school premises. “**NO SMOKING**” signs are available in accordance with procedures established by the Office of Purchasing Management;
 2. Supply a copy of the Smoke-Free Environment Policy (Attachment A) upon request to all employees or prospective employees and disseminate it to all employees and to all new employees when hired; and
 3. Upon request, provide a copy of this Regulation to employees of the New York City Fire Department and the Departments of Health, Buildings, Consumer Affairs, Environmental Protection, and Sanitation, who have been designated by their agency as enforcement officers.
- B. Each official in charge of an office, or his/her designee in buildings for administrative use only shall take the following actions:
1. Post “**NO SMOKING**” signs at all major entrances. “**NO SMOKING**” signs are available in accordance with procedures established by the Office of Purchasing Management;
 2. Prominently post the Smoke-Free Environment Policy (Attachment A) in the work area and supply a copy of the Smoke-Free Environment Policy upon request to all employees or prospective employees and to disseminate it to all employees and all new employees when hired;
 3. Upon request, provide a copy of this Regulation to employees of the New York City Fire Department and the Departments of Health, Buildings, Consumer Affairs, Environmental Protection, and Sanitation, who have been designated by their agency as enforcement officers.

IV. DISPUTE RESOLUTION PROCEDURES

Employee disputes arising out of implementation of the Smoke-Free Environment Policy and regulation shall be addressed and resolved in the following sequence.

- A. Employee disputes shall be addressed to the employee’s immediate supervisor who will examine the dispute and attempt to resolve the problem.



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- B. A dispute not resolved in accordance with “A” above, shall be submitted to the appropriate person as designated below:
1. in a school, the Principal;
 2. in a Learning Support Center or Regional Operations Center, the Director of the ROC;
 3. in a central division or office, the Executive Director or Director.
- C. A dispute still not resolved shall be submitted in writing to the Office of Labor Relations and Collective Bargaining, 49 Chambers Street, New York, New York 10007. After examining the facts of the dispute, a finding will be made and a recommendation for the solution of the problem will be submitted to the Chancellor.
- D. The Chancellor or his/her designee shall issue an order to resolve the dispute. There shall be no appeal from the decision of the Chancellor or his/her designee.

V. PROTECTION FROM ADVERSE PERSONNEL ACTION

Employees or applicants for employment who exercise or attempt to exercise any rights granted under this Smoke-Free Environment Policy pursuant to this Regulation shall be protected from any retaliatory adverse personnel action. Such adverse personnel action includes, but is not limited to dismissal, demotion, suspension, disciplinary action, negative performance evaluation, any action resulting in loss of staff, compensation or other benefit, failure to hire, failure to appoint, failure to promote, or any transfer or assignment or failure to transfer or assign against the wishes of the affected employee. Existing established procedures may be invoked to obtain redress for any such adverse personnel action taken against an employee in retaliation for that employee’s attempt to exercise his or her rights under this Regulation.

VI. APPLICABILITY OF COLLECTIVE BARGAINING PROCEDURES

Nothing in this Regulation shall be construed to impair, diminish, or otherwise affect any collectively bargained procedure or remedy available to an employee existing specifically with respect to disputes arising under the Department of Education Smoke-Free Environment Policy or with respect to established procedures for redress of any adverse personnel action taken against an employee in retaliation for that employee’s attempt to exercise his or her rights under this Regulation.



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VII. INQUIRIES

Inquiries pertaining to this regulation should be addressed to:

Telephone (718) 935-5878	<i>Office of Support Services</i> New York City Department of Education 65 Court Street – Room 504 Brooklyn, New York 11201	Fax (718) 935-5472
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Smoke-Free Environment Policy

Purpose	A Smoke-Free Environment Policy has been developed to comply with the New York City Smoke-Free Air Act (Title 17, Chapter 5 of the Administrative Code of the City of New York) and New York State Clean Indoor Air Act (Article 13-E of the New York State Public Health Law), and to protect all students, employees and visitors from secondhand smoke. The policy set forth below is effective for all New York City Department of Education locations.
Smoke-Free Environment	All areas of the New York City Department of Education are now smoke-free without exception. Smoking, or use of any tobacco product, including chewing tobacco, is not permitted anywhere within the Department of Education, including all indoor and outdoor facilities and city vehicles. Smoking is not permitted in private enclosed offices, conference and meeting rooms, cafeterias, lunchrooms, employee lounges, or anywhere on school grounds including playing fields, schoolyards, entrances and exits to buildings, parking lots, etc. Smoking is prohibited by employees while they are on duty supervising children, whether they are on or off school grounds. In addition, it is strictly prohibited for staff and students 18 years old or older to purchase tobacco products for or provide them to any student under the age of 18.
Compliance	<p>Compliance with the Smoke-Free Environment Policy is mandatory for all students, employees and persons visiting Department of Education facilities and property. There are no exceptions. Students and employees who violate this policy are subject to disciplinary action.</p> <p>Any employee disputes involving smoking should be handled through the Department's procedure for resolving other work-related problems. In accordance with Dispute Resolution Procedures outlined in Chancellor's Regulation C-810, if the problem persists, an employee can speak to his/her supervisor, the principal in a school, or to the Director of the Regional Operations Center (ROC). The employee may then submit a written complaint to the Office of Labor Relations. An employee may also lodge an anonymous complaint by calling 311, the New York City governmental information line, or on the web at http://www.nyc.gov/html/doh/html/smoke/smoke-complaint.html.</p> <p>The law prohibits employers from retaliating against employees who invoke the law or who request management's assistance in implementing it in the workplace.</p>
Smoking Cessation Opportunities	The New York City Department of Education encourages all smoking employees to quit smoking. Smoking cessation information is available from 311 or the New York State Smokers' Quit Line at 1-866 NY QUIT (1-866-697-8487).
Questions	Any questions regarding the Smoke-Free Environment Policy should be directed to the Office of Support Services, New York City Department of Education, at (718) 935-5878.