

Policies for Review - 1st Reading

January 4, 2021

ADC - Tobacco Products Ban Use and Possession in and on School Facilities and Grounds

GBED - Tobacco Products Ban Use and Possession in and on School Facilities and Grounds

JICG - Tobacco Products Ban Use and Possession in and on School Facilities and Grounds

IMGA - Service Animals in School

*Current GSD Policy. Revised in response to HB 511 to add "E-liquid" and "Device."
This policy is also coded in three sections, Employee GBED, Foundations ADC and student JICG.*

11-10-2020 Policy Committee

12-8-2020 Policy Committee

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TOBACCO PRODUCTS BAN USE AND POSSESSION IN AND ON SCHOOL FACILITIES AND GROUNDS

State law prohibits the use of any tobacco product, E-cigarette, or liquid nicotine in any facility or upon any grounds maintained by the District. Students and minors are further prohibited from possessing such items in or upon any facility, school vehicle, or grounds owned or maintained by the District.

A. Definitions.

"Tobacco product(s)" means any product containing tobacco including, but not limited to, cigarettes, smoking tobacco, cigars, chewing tobacco, snuff, pipe tobacco, smokeless tobacco, and smokeless cigarettes, as well as any other product or item included in RSA 126-K:2, XI as the same may be amended or replaced from time-to-time.

"Device" means any product composed of a mouthpiece, a heating element, a battery, and electronic circuits designed or used to deliver any aerosolized or vaporized substance including, but not limited to, nicotine or cannabis. Device may include, but is not limited to, hookah, e-cigarette, e-cigar, e-pipe, vape pen, e-hookah, as well as any other object or item defined in RSA 126-K:2, II-a.

"E-cigarette" means any electronic smoking device composed of a mouthpiece, a heating element, a battery, and electronic circuits **that may or may not contain nicotine or E-liquid.** ~~that simulates smoking.~~ This term shall include such devices whether they are manufactured as e-cigarettes, e-cigars, or e-pipes, or under any other product name as well as any other product or item included in RSA 126-K:2, II-a as the same may be amended or replaced from time-to-time.

"E-liquid" means any liquid, oil, or wax product containing, but not limited to, nicotine or cannabis intended for use in devices used for inhalation as well as any other substance included or defined in RSA 126-K:2, II-c.

"Liquid nicotine" means any liquid product composed either in whole or in part of pure nicotine and propylene glycol and manufactured for use with e-cigarettes, as well as any other product or item included in RSA 126-K:2, III-a as the same may be amended or replaced from time-to-time.

"Facility" is any place which is supported by public funds and which is used for the instruction of students enrolled in preschool programs and in all grades maintained by the District. This definition shall include all administrative buildings and offices and areas within facilities supportive of instruction and subject to educational administration, including, but

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not limited to, lounge areas, passageways, rest rooms, laboratories, classrooms, study areas, cafeterias, gymnasiums, maintenance rooms, and storage areas.

B. Students

No student shall purchase, attempt to purchase, possess or use any tobacco product, **device**, E-cigarette, **E-liquid**, or liquid nicotine in any facility, in any school vehicle or anywhere on school grounds maintained by the District.

Enforcement of the prohibition against students shall initially rest with building principals, or their designees, who may also report any violation to law enforcement, for possible juvenile, criminal or other proceedings as provided under state law. Additional consequences may be administered pursuant to printed student conduct rules.

C. Employees

No employee shall use any tobacco product, **device**, E-cigarette, **E-liquid**, or liquid nicotine, in any facility, in any school vehicle or anywhere on school grounds maintained by the District.

Initial responsibility for enforcement of this prohibition shall rest with building principals, or their designees. Any employee(s) who violate(s) this policy is subject to disciplinary action which may include warning, suspension or dismissal. Violations may also be referred to appropriate law enforcement and/or other appropriate agencies for criminal or other proceedings as provided under state law.

D. All other persons

No visitor, contractor, vendor or other member of the public, shall use any tobacco product, **device**, E-cigarette, **E-Liquid** or liquid nicotine in any facility, in any school vehicle, or anywhere on school grounds maintained by the District.

The building Principal(s), and where appropriate, other site supervisor (athletic director, vehicle driver, etc.), or their designee(s), shall have the initial responsibility to enforce this section, by requesting that any person who is violating this policy to immediately cease the use of tobacco products, E-cigarette or liquid nicotine. After this request is made, if any person refuses to refrain from using such products in violation of this policy, the principal, site supervisor, or designee may call contact the appropriate law enforcement agency(ies) for possible criminal or other proceedings as provided under state law.

E. Implementation and Notice - Administrative Rules and Procedures.

The Superintendent shall establish administrative rules and procedures to implement this policy. These rules and procedures may be building level and/or district-wide. Rules and procedures relating to student violations and resulting disciplinary consequences should be

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developed in consultation with building principal(s).

The Superintendent, working with the building Principal(s), shall provide annual notice to employees, students and parents of the pertinent provisions of this policy (e.g., student or staff handbook) along with applicable administrative regulations and procedures, which may include prescribed consequences for violations of this policy. Such notice should include information that violation of this Policy could lead to criminal or other such proceedings.

Signs shall be placed by the District in all buildings, facilities and school vehicles stating that the use of tobacco products is prohibited.

Legal References:

- *RSA 155:64 - 77, Indoor Smoking Act*
- *RSA 126-K:2, Definitions*

- *RSA 126-K:6, Possession and Use of Tobacco Products by Minors*
- *RSA 126-K:7, Use of Tobacco Products on Public Educational Grounds Prohibited*

(Adopted: 2/4/2019)

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A. Definitions.

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"Device" means any product composed of a mouthpiece, a heating element, a battery, and electronic circuits designed or used to deliver any aerosolized or vaporized substance including, but not limited to, nicotine or cannabis. Device may include, but is not limited to, hookah, e-cigarette, e-cigar, e-pipe, vape pen, e-hookah, as well as any other object or item defined in RSA 126-K:2, II-a.

"E-cigarette" means any electronic smoking device composed of a mouthpiece, a heating element, a battery, and electronic circuits **that may or may not contain nicotine or E-liquid.** ~~that simulates smoking.~~ This term shall include such devices whether they are manufactured as e-cigarettes, e-cigars, or e-pipes, or under any other product name as well as any other product or item included in RSA 126-K:2, II-a as the same may be amended or replaced from time-to-time.

"E-liquid" means any liquid, oil, or wax product containing, but not limited to, nicotine or cannabis intended for use in devices used for inhalation as well as any other substance included or defined in RSA 126-K:2, II-c.

"Liquid nicotine" means any liquid product composed either in whole or in part of pure nicotine and propylene glycol and manufactured for use with e-cigarettes, as well as any other product or item included in RSA 126-K:2, III-a as the same may be amended or replaced from time-to-time.

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not limited to, lounge areas, passageways, rest rooms, laboratories, classrooms, study areas, cafeterias, gymnasiums, maintenance rooms, and storage areas.

B. Students

~~No student shall purchase, attempt to purchase, possess or use any tobacco product, **device**, E-cigarette, **E-liquid**, or liquid nicotine in any facility, in any school vehicle or anywhere on school grounds maintained by the District.~~

~~Enforcement of the prohibition against students shall initially rest with building principals, or their designees, who may also report any violation to law enforcement, for possible juvenile, criminal or other proceedings as provided under state law. Additional consequences may be administered pursuant to printed student conduct rules.~~

C. Employees

No employee shall use any tobacco product, **device**, E-cigarette, **E-liquid**, or liquid nicotine, in any facility, in any school vehicle or anywhere on school grounds maintained by the District.

Initial responsibility for enforcement of this prohibition shall rest with building principals, or their designees. Any employee(s) who violate(s) this policy is subject to disciplinary action which may include warning, suspension or dismissal. Violations may also be referred to appropriate law enforcement and/or other appropriate agencies for criminal or other proceedings as provided under state law.

D. All other persons

No visitor, contractor, vendor or other member of the public, shall use any tobacco product, **device**, E-cigarette, **E-Liquid** or liquid nicotine in any facility, in any school vehicle, or anywhere on school grounds maintained by the District.

The building Principal(s), and where appropriate, other site supervisor (athletic director, vehicle driver, etc.), or their designee(s), shall have the initial responsibility to enforce this section, by requesting that any person who is violating this policy to immediately cease the use of tobacco products, E-cigarette or liquid nicotine. After this request is made, if any person refuses to refrain from using such products in violation of this policy, the principal, site supervisor, or designee may call contact the appropriate law enforcement agency(ies) for possible criminal or other proceedings as provided under state law.

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developed in consultation with building principal(s).

The Superintendent, working with the building Principal(s), shall provide annual notice to employees, students and parents of the pertinent provisions of this policy (e.g., student or staff handbook) along with applicable administrative regulations and procedures, which may include prescribed consequences for violations of this policy. Such notice should include information that violation of this Policy could lead to criminal or other such proceedings.

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"E-cigarette" means any electronic smoking device composed of a mouthpiece, a heating element, a battery, and electronic circuits **that may or may not contain nicotine or E-liquid.** ~~that simulates smoking.~~ This term shall include such devices whether they are manufactured as e-cigarettes, e-cigars, or e-pipes, or under any other product name as well as any other product or item included in RSA 126-K:2, II-a as the same may be amended or replaced from time-to-time.

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D. All other persons

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(Adopted: 2/4/2019)

Current GSD policy. Suggest replacing with NHSBA sample policy to add clarity and reflect emerging interpretations of applicable statutes and regulations. This policy is required by law.

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SERVICE ANIMALS

Purpose

This policy addresses the use of service animals within school buildings and on school grounds. As established and defined by the Americans with Disabilities Act and its accompanying regulations, individuals with disabilities shall be permitted to bring their service animals in school buildings or on school grounds in accordance with this policy. Conditions relative to pets and non-service animals within the school building and on school grounds are found in Board Policy IMG.

“Service Animal” Defined

In accordance with 28 CFR 35.104 (effective March 15, 2011) a “service animal” is defined as:

Any dog that is individually trained to do or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purpose of this definition. The work or tasks performed by a service animal must be directly related to the handler’s disability. Examples of work or tasks include, but are not limited to, assisting individuals who are blind or who have low vision with navigation and other tasks, alerting individuals who are deaf or hard of hearing to the presence of people or sounds, providing non-violent protection or rescue work, pulling a wheelchair, assisting an individual during a seizure, alerting individuals to the presence of allergens, retrieving items such as medicine or telephone, providing physical support and assistance with balance and stability to individuals with mobility disabilities, and helping persons with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors. The crime deterrent effects of an animal’s presence and the provision of emotional support, well-being, comfort, or companionship do not constitute work or task for the purpose of this definition.

This definition shall be construed to include a “hearing ear dog,” “guide dog,” or “service dog,” as those terms are currently defined in NH RSA 167-D:3.

Permissible Inquires

The District will not make the inquiry about the nature or extent of an individual’s disability in determining whether to allow a service animal in a school building or on school grounds. When it is not patently obvious as to the role of the service animal, the District may ask whether the animal is required because of a disability and what work or task the animal has been trained to perform.

When a student or employee’s disability requires the presence of a service animal in a school building or on school grounds during the school day, the District shall also require annual submission of proof of current vaccinations and immunizations of the service animal and a

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current veterinary health certificate.

Access to the School Buildings and Grounds

In accord with federal regulations, individuals with disabilities shall be permitted to be accompanied by their service animal in all areas of District schools, where members of the public, participants in services, programs, or invitees, as relevant, are allowed to go.

Animals for Children with Educational Disabilities or a Section 504 Plan

If a student with an educational disability or a Section 504 Plan seeks to bring an animal on a school campus that is not a service animal, the request shall be referred to the IEP or Section 504 Team to determine whether the animal is necessary for the student to receive a free and appropriate education (FAPE).

Management of Service Animals

Service animals must be under control of their handlers. A service animal shall have a harness, leash, or other tether, unless either the handler is unable because of a disability to use a harness, leash, or other tether, or the use of a harness, leash, or tether would interfere with the service animal's safe, effective performance of work or tasks, in which case the service animal must be otherwise under the handler's control (e.g., voice control, signals, or other effective means).

Care of and Responsibility for Service Animals

The District is not responsible for the care or supervision of a service animal. The owner or handler of the service animal shall be solely responsible for:

- Supervision and care of the animal, including feeding, exercising, clean-up and stain removal;
- Restraint of the animal at all times;
- Damages to the school buildings, property and vehicles caused by the animal;
- Injuries to students, employees, volunteers and visitors caused by the animal; and
- Annual submission of documentation of vaccinations and immunizations.

Animals for Employees

Use of a service animal by a qualified employee with a disability will be allowed when such use is necessary to enable the employee to perform the essential functions of his/her position or to enjoy the benefits of employment in a manner comparable to those similarly situated non-disabled employees.

Circumstances Under Which a Service Animal Will Be Prohibited from Campus

The Superintendent or other designee may ask an individual with a disability to remove a service animal from the campus or school event, or may even deny a request for use of a service animal on campus or at a school event if:

Current GSD policy. Suggest replacing with NHSBA sample policy to add clarity and reflect emerging interpretations of applicable statutes and regulations. This policy is required by law.

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- The animal is out of control and the animal’s handler does not take effective action to control it;
- The animal is not housebroken;
- The presence of the animal will require a fundamental alternation of the program or will significantly disrupt or interfere with the educational process;
- When the animal is to be used regularly during the school day or at school events, the handler fails to submit proof of current vaccinations and immunizations of the service animal and a current veterinary health certificate;
- To the extent applicable, the handler fails to comply with NH RSA 167-D.

If an animal is properly removed or prohibited from the premises, the District will continue to give the individual with a disability the opportunity to participate in District services, programs, or activities without having the service animal on the premises.

A decision to remove or prohibit a service animal from District schools may be appealed to the Superintendent of Schools.

Legal References

Section 504 of the Rehabilitation Act – 29 U.S.C. 794

Americans with Disabilities Act – 42 U.S.C. 12101 et seq.

Nondiscrimination on the Basis of Disability, Title 28 CFR Part 35, Part 36

NH RSA 167-D

(Adopted 12/15/2011)

NHSBA sample policy. Suggest replacing current GSD policy to add clarity and reflect emerging interpretations of applicable statutes and regulations. This policy is required by law.

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IMGA - SERVICE ANIMALS IN SCHOOLS

(Download policy)

Category: Priority - Required by Law

A. General Conditions.

1. Use of a service animal by a person with a disability will be allowed in or upon District property when the animal is required to perform work or tasks directly related to the individual's disability.

Qualified individuals with disabilities and service animal trainers are eligible to use service animals in the School.

2. "Service animals":

a. "Service Animal" for the purposes of this policy shall mean and include any dog individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. Service animal shall be construed to include a "hearing ear dog," "guide dog," or "service dog," as those terms are currently defined in NH RSA 167-D:1. "Emotional support," "therapy," or "comfort dogs" are generally not service animals for the purposes of this policy, except as may be provided under Paragraph B.2, below.

Miniature horses do not specifically fall within the state or federal statutory definitions for "service animal". However, miniature horses which have been individually trained to perform specific work or tasks may be permitted in the schools in certain circumstances as a reasonable accommodation for a qualified individual with a disability. Any such requests should be directed to the Superintendent or his/her designee, who in addition to the above will take into consideration the provisions of Paragraph B.2, and Section C, below. If a miniature horse is approved, all the conditions in this policy shall apply.

Other species of animals, whether wild or domestic, trained or untrained, are not service animals for purposes of this definition.

b. The work or tasks performed by a service animal must be directly related to the individual's disability. Under state and federal law, work and tasks may include, but are not limited to: (1) assisting individuals who are blind or have low vision with navigation and other tasks; (2) alerting individuals who are deaf or hard of hearing to the presence of people or sounds; (3) providing nonviolent protection or rescue work; (4) pulling a wheelchair; (5) assisting an individual during a seizure; (6) alerting individuals to the presence of allergens; (7) retrieving items such as medicine or a telephone; (8) providing physical support and assistance with balance and stability to individuals with mobility disabilities; and (9) helping persons with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors. The crime deterrent effect

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of an animal's presence and the provision of emotional support, well-being, comfort, or companionship does not constitute work or tasks for the purposes of the law.

3. "Comfort" animals/pets: Animals which do not meet the definition of Service Animal as provided above, are not entitled to protection under this policy and are subject to such other applicable policies or administrative regulations of the District or school.

4. The District will have no responsibility for the training, feeding, grooming or care of any service animal permitted to attend school under this policy (except in the limited circumstances described in Section B.3.a, below. It shall be the responsibility of the individual with a disability or designated handler to ensure the proper care and supervision of the service animal.

5. All service animals must be kept on a harness, leash or tether (unless this prevents the animal from performing his/her specific work or tasks with the individual), or must otherwise be under the control of the individual with a disability or designated handler at all times.

6. The individual (in the case of a student, the student's parent/guardian(s)) is liable for any damage to District property or other personal property, and for any injuries to individuals caused by the service animal, consistent with any applicable laws.

7. Individuals with service animals may access the same areas that individuals without disabilities are authorized to access.

8. As used in this policy, "service animal trainer" shall have the same definition as that provided under RSA 167-D:1 as the same may be amended or replaced from time-to-time. As of February 1, 2017 that statute defines "service animal trainer": (i) as any person who is employed to train dogs for or is volunteering to raise dogs for a provider of service animals for persons with disabilities, (ii) or an individual trainer who helps a person with disabilities to train his or her own service animal, (iii) or an individual trainer who tests an animal to verify its eligibility for the New Hampshire service animal tag.

B. Administrative Review of Service Animals.

1. Whenever a service animal is in the school or on District property (and it is not obvious that the animal qualifies as a service animal, e.g., guide dog for a blind person), a building administrator or other authorized District personnel may ask:

- a. Whether the service animal is required because of a disability;
- b. What work or task(s) the animal has been trained to perform;
- c. In the case of a service animal trainer, documentation of the individual's affiliation with a recognized organization as described in RSA 167, and section A.7 above.

2. If a student with an educational disability or a Section 504 Plan seeks to bring an animal on a school campus that is not a service animal as defined above, the request shall be referred

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to the IEP or Section 504 Team to determine whether the animal is necessary for the student to receive a free and appropriate education (FAPE). After such review, if the animal is deemed necessary for the student to receive FAPE, then the animal shall be a service animal for the purposes of this policy.

3. When it is anticipated that a service animal is going to be in school on a regular basis with a third party (e.g., employee, volunteer, service animal trainer or other frequent visitor to the school), the individual using the service animal (or in the case of a student, the student's parent/guardian(s)) are strongly encouraged to notify the Superintendent or the Principal in advance.

a. The school will not provide any staff support to care for or control a service animal, but may provide support to a student using a service animal as needed in a particular instance (i.e., accompanying a young student who takes a service animal outside to relieve itself).

b. Any handler (service animal trainer, parent/guardian or other person) accompanying the service animal must have approval to work in the school from the New Hampshire Department of Education and undergo the State criminal background check.

4. Service animals must be properly licensed and vaccinated in accordance with New Hampshire law (see RSA Chapter 466).

C. Additional Considerations Relative to Service Miniature Horses.

In making a determination as to whether to allow a specific miniature horse as a service animal, the Superintendent/designee will consider pertinent factors, including, without limitation:

a. The type, size, and weight of the miniature horse and whether the facility can accommodate these features;

b. Whether the handler has sufficient control of the miniature horse;

c. Whether the miniature horse is housebroken; and

d. Whether the miniature horse's presence in a specific facility compromises legitimate safety requirements necessary for the safety of students or others.

D. Removal or Exclusion of Service Animals from School.

1. The Superintendent, Principal or other authorized school official may require that the service animal be removed from the school or other District property under any of the following circumstances:

a. The service animal poses a direct threat to the safety of individuals, causes a significant disruption of school activities or programs, fundamentally alters the nature of any school program, or otherwise jeopardizes the safe operation of the school in a manner that cannot be eliminated by modifications;

NHSBA sample policy. Suggest replacing current GSD policy to add clarity and reflect emerging interpretations of applicable statutes and regulations. This policy is required by law.

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- b. The service animal demonstrates that he/she is unable to perform reliably the work or tasks which he/she was represented as being able to perform (which is required to be defined as a service animal);
 - c. The service animal is not under the full control of the person with a disability, or the authorized handler/trainer, and the individual does not take effective action to control the animal;
 - d. The service animal is sick (i.e., vomiting, etc.), infested with parasites, has an infection of the skin, mouth or eyes, or otherwise presents a threat to the public health (applying the standard that would be applied to any other animal allowed on school premises); and/or
 - e. The service animal is not housebroken (i.e., demonstrates that it is not sufficiently trained to relieve itself outside in appropriate locations).
2. If a service animal is removed or excluded, the individual shall still be provided access to school facilities, programs and/or services.

History:

First reading: _____

Second reading/adopted: _____

Legal References:

Section 504 of the Rehabilitation Act - 29 U.S.C. 794;

Americans with Disabilities Act - 42 U.S.C. 12101 et seq.;

Nondiscrimination on the Basis of Disability, Title 28 CFR Part 35-36;

NH RSA 167-D and 466;

NHSBA revision note: NHSBA has revised sample policy IMGA to add clarity and to reflect emerging interpretations of applicable statutes and regulations.

NHSBA sample policy. Suggest replacing current GSD policy to add clarity and reflect emerging interpretations of applicable statutes and regulations. This policy is required by law.

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