

TITLE 6 PRIMARY AND SECONDARY EDUCATION
CHAPTER 12 PUBLIC SCHOOL ADMINISTRATION - HEALTH AND SAFETY
PART 4 TOBACCO, ALCOHOL AND DRUG FREE SCHOOLS

6.12.4.1 ISSUING AGENCY: Public Education Department
[6.12.4.1 NMAC - Rp, 6.12.4.1 NMAC, xx/xx/2015]

6.12.4.2 SCOPE: This rule applies to school districts, local school boards and to state-chartered charter schools and governing bodies.
[6.12.4.2 NMAC - Rp, 6.12.4.2 NMAC, xx/xx/2015]

6.12.4.3 STATUTORY AUTHORITY: This rule is promulgated by the secretary of public education and the public education department under the authority of Sections 9-24-8, 22-2-1, 22-2-2 and 22-5-4.4 NMSA 1978.
[6.12.4.3 NMAC - Rp, 6.12.4.3 NMAC, xx/xx/2015]

6.12.4.4 DURATION: Permanent
[6.12.4.4 NMAC - Rp, 6.12.4.4 NMAC, xx/xx/2015]

6.12.4.5 EFFECTIVE DATE: MONTH DAY, 2015, unless a later date is cited at the end of a section.
[6.12.4.5 NMAC - Rp, 6.12.4.5 NMAC, xx/xx/2015]

6.12.4.6 OBJECTIVE: The objective of this rule is to prohibit the use, possession and distribution of tobacco products, e-cigarettes and nicotine liquid containers, alcoholic beverages, mood-altering substances and illicit drugs in school buildings, on school premises and by students at school-sponsored activities away from school grounds.
[6.12.4.6 NMAC - Rp, 6.12.4.6 NMAC, xx/xx/2015]

6.12.4.7 DEFINITIONS:

A. “Alcoholic beverage” means any beverage containing more than one-half percent alcohol by volume, and includes all distilled or rectified spirits, potable alcohol or any similar alcoholic beverages, including all fermented or blended beverages and dilutions or mixtures of one or more of these alcoholic beverages.

B. “E-cigarette”:

(1) means any electronic oral device, whether composed of a heating element and battery or an electronic circuit, that provides a vapor of nicotine or any other substances the use or inhalation of which simulates smoking; and

(2) includes any such device, or any part of it, whether manufactured, distributed, marketed or sold as an e-cigarette, e-cigar, e-pipe or any other product, name or descriptor; but

(3) does not include any product regulated as a drug or device by the United States food and drug administration under the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Section 301 et seq.

C. “Illicit drugs” means prescription and over-the-counter medications used for non-medical purposes, or not used as medically prescribed by lawfully authorized practitioners or as directed by the manufacturer’s literature, and include all supplemental dietary or nutrition ergogenic aids, stimulants, nootropics, adaptogens, painkillers, sedatives and anxiolytics, blood boosters and other performance-enhancing drugs.

D. “Mood-altering substances” means substances that change, or are capable of changing, a person’s emotional state, and include all stimulants, opioids, intoxicative inhalants and hallucinogens.

E. “Nicotine liquid container” means a bottle or other container of any substance containing nicotine where the substance is sold, marketed or intended for use in an e-cigarette.

F. “School personnel” includes all administrators, principals, teachers, counselors, social workers, speech therapists, psychologists, nurses, librarians and other support staff who is employed by a school, or who perform services for the school on a contractual basis.

G. “Tobacco product” means any product made or derived from tobacco that is intended for human consumption, including any component, part or accessory of a tobacco product. This includes, among other products, cigarettes, cigars, pipe tobacco, roll-your-own tobacco, dissolvable tobacco, and smokeless tobacco. Smokeless tobacco means any snuff or chewing tobacco.
[6.12.4.7 NMAC - Rp, 6.12.4.7 NMAC, xx/xx/2015]

6.12.4.8 REQUIREMENTS: Each local school board or governing body shall establish a tobacco, alcohol and drug free school policy:

A. The policy shall provide specific rules of conduct prohibiting the use, possession and distribution of tobacco products, e-cigarettes and nicotine liquid containers, alcoholic beverages, mood-altering substances and illicit drugs in school buildings, on school premises and by students at school-sponsored activities away from school grounds.

B. Each school district and state-chartered charter school shall detail the prohibited acts and activities under the policy, and shall establish adequate provisions for its enforcement, including the enumeration of possible sanctions or disciplinary action, consistent with applicable statutory and case law.

C. The policy shall provide that no school employee who in good faith reports any known or suspected use, possession or distribution of alcoholic beverages, mood-altering substances or illicit drugs shall be held liable for any civil damages as a result of such report or efforts to enforce the policy.

D. Each school district and state-chartered charter school shall develop and implement a procedure for effectively communicating the policy to students, their parents and families, school personnel, visitors on school premises, and to local residents, groups, businesses and organizations served by the school.

E. Each school district and state-chartered charter school shall post conspicuous notices on all school premises prohibiting the use, possession and distribution of tobacco products, e-cigarettes and nicotine liquid containers, alcoholic beverages, mood-altering substances and illicit drugs, in school buildings, on school premises and by students at school-sponsored activities away from school grounds.

[6.12.4.8 NMAC - Rp, 6.12.4.8 NMAC, xx/xx/2015]

6.12.4.9 EXCEPTION: Sections 6 and 8 of this rule shall not include the lawful possession or use by a minor of a tobacco-cessation product approved by the United States food and drug administration.

[6.12.4.9 NMAC -N, xx/xx/2015]

HISTORY OF 6.12.4 NMAC:

PRE-NMAC HISTORY: The material in this regulation is derived from that previously filed with the State Records Center and Archives under: State Board of Education Regulation No. 94-2, Regulation on Tobacco Free School Districts, filed July 19, 1994.

History of Repealed Material:

6.12.4 NMAC, Tobacco, Alcohol and Drug Free Schools (filed 05-16-2001) repealed xx-xx-15.