

Students and Electronic Cigarettes: Implications of Governor Malloy's Proposed Legislation

Education Law Notes

02.26.2014

Recently, there has been a lot of debate in the media about electronic cigarettes or “e-cigarettes.” E-cigarettes are battery operated devices that are used to ingest nicotine by inhaling a vapor. (For more detail, the Connecticut Department of Public Health has issued a factsheet available [here](#).) The discussion around e-cigarettes focuses on some very basic but important questions: Are e-cigarettes safe? Do they help people quit smoking or keep people addicted? Do e-cigarettes encourage smoking among teens? These questions may soon become a pressing policy concern for school districts that have not already dealt with this topic.

In the current legislative session, Governor Malloy has proposed a bill that will prohibit any person from selling, giving or delivering “an electronic nicotine delivery system” (this includes the apparatus as well as the cartridges) to any minor under 18. The bill also prohibits minors from purchasing or possessing in a public place an electronic delivery system in any form. Violators would be subject to fines. Since the bill’s definition of “public place” includes “any area that is used or held out for use by the public, whether owned or operated by public or private interests,” minors under the age of 18 would likely be prohibited from possessing e-cigarettes on school grounds. Accordingly, if this bill – or some version of it— becomes law, schools will have to address the public possession and use of e-cigarettes at school by minors, in a disciplinary context.

School boards need not wait for any new laws to be enacted in order to address the use or possession of e-cigarettes by students at school. Although minors may currently purchase and use electronic cigarettes, schools may establish reasonable rules regarding the use or possession of e-cigarettes on school grounds. State law prohibits smoking in schools (as well as state and municipal buildings, restaurants, health care institutions, etc.), with the word “smoking” defined by law as the “lighting or the carrying of a lighted cigarette, cigar, pipe **or similar device.**” Connecticut General Statutes § 19a-342, Whether e-cigarettes constitute a “similar device” is arguable. Nevertheless, the general authority of boards of education to establish rules for the proper functioning of the school district enables them to revise their “no smoking” policies to include electronic devices within the general prohibition.

Another aspect of this debate for schools to consider is whether – and to what extent— e-cigarettes should be a part of the district’s curriculum. Connecticut General Statutes §10-19 requires all boards of education to teach students the “knowledge, skills and attitudes required to understand and avoid the effects of alcohol, **of nicotine** or tobacco and of drugs.” This is expected to be part of the curriculum each year for students in all grades. Certainly, e-cigarettes fall within the category of “nicotine” and may therefore be included in the

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