

# **Smoke-Free Ontario Act, 2017 and Regulation as amended: Smoke-Free Schools Enforcement Protocol**

## **Durham District School Board**



Revised October 2022

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The Smoke-Free Schools Enforcement Protocol outlines how schools can work in partnership with the Durham Region Health Department’s Tobacco Enforcement Officers to ensure compliance with the *Smoke-Free Ontario Act, 2017 (SFOA)*. This Act is part of a provincial, comprehensive strategy to prevent young from people from starting to smoke, to assist people who want to quit smoking and to protect everyone from exposure to second-hand smoke.

## Scope of the Smoke-Free Ontario Act, 2017: Schools

This law applies to everyone, anytime, anywhere.

- **Everyone:** Anyone caught smoking or holding lighted tobacco, cannabis, or electronic cigarettes/associated devices on school property or within 20 meters of its property boundary regardless of age, status or reason can be charged. Anyone caught selling, buying, or giving tobacco/cannabis products, on and off school property, to anyone under 19, can be charged. This includes:
  - parents/guardians
  - all staff
  - students (including summer school and evening continuing education students), and visitors.
- **Anytime:**
  - 24 hours a day
  - 7 days a week
  - 365 days a year
- **Anywhere:** Smoking or holding lighted tobacco, cannabis, or electronic cigarettes/associated devices on school property or within 20 meters of its property boundary regardless of age, status or reason, is not allowed in school buildings or on school property at any time. This includes:
  - school parking lots,
  - cars in parking lots,
  - sports fields, and
  - courtyards.

This law applies to all **tobacco/cannabis products**. Please refer to Subsection 10: What is a Tobacco Product?



## Responsibility of the Tobacco Enforcement Officers

The term “Tobacco Enforcement Officer” refers to a person appointed as an inspector pursuant to Section 20 of the *SFOA, 2017* and also appointed as a Provincial Offences Officer pursuant to the *Ontario Provincial Offences Act*.

### **Enforcement:**

The Tobacco Enforcement Officers are responsible for ensuring compliance with the *SFOA, 2017* by carrying out inspections, enforcing the Protocol in partnership with schools and investigating complaints.

### **Cessation:**

The Tobacco Enforcement Officers will also provide cessation referral and information to all interested students.

### **Charges under the Smoke-Free Ontario Act:**

- Students under **16 years of age** may be issued a Provincial Offences Summons and must answer to the charge in Provincial Offences Court.
- Students/Persons 16 years and over may be issued a Provincial Offences Summons or a Provincial Offences Ticket.
- Repeat offenders may be issued a Provincial Offences Summons.

### **Communication of the Smoke-Free Schools Enforcement Protocol:**

The Principal should:

- ensure that the Protocol, including actions that will be taken if there is a violation, is communicated annually to all staff, students, parents/guardians and visitors
- include information concerning the *SFOA, 2017* Protocol in at least one form of communication (on web sites, in school agendas, in the school newsletter, etc.)

Refer to Procedure 5145 and Subsection 5, for a communication insert for agendas, web sites or newsletters.

## Involving Parents/Guardians

### Parent/Guardian Notification:

- Under the Education Act, parents/guardians receive notification of the incident if the student is **under the age of 18**.
- Once the student reaches **18 years of age**, the student receives notification.

### Parent/Guardian Education:

Resources for parents/guardians/community can be obtained:

- from the Durham Region Health Department at [www.durham.ca](http://www.durham.ca); or
- by calling the Health Connection Line at 1-800-841-2729 or 905-666-6241; Monday to Friday, between 9 a.m. and 6 p.m.

Information for parents on the *SFOA, 2017* is included in Subsection 9: Information Sheet for Parents/Guardians.

## Inspection by the Tobacco Enforcement Officer

### The Tobacco Enforcement Officer will inspect:

- Secondary schools annually

### Upon arrival at the school for an inspection, the Tobacco Enforcement Officer will:

- contact the Principal/Designate who is responsible for enforcing the SFOA, 2017 at the school;
- inspect signage;
- review implementation of the Protocol; and
- inspect for smoking tobacco, cannabis, or electronic cigarettes/associated devices on school property.

### Inspection: Signage

#### Minimum Sign Requirements:

A sign that is 10 centimeters in diameter shall show an illustration of a black, lit cigarette on a white circle surrounded by a red border of one centimeter in width (*SFOA, 2017* as amended).

Refer to Appendix A, *SFOA, 2017* as amended.

### Roles and Responsibilities with Respect to Signage (under the *SFOA, 2017*)

#### 1. The Durham District School Board will:

- make school property boundary drawings available as required; and
- post no smoking signs at all entrances to the school buildings and at access points to school property. Additional 'stick on' No Smoking signs may be obtained from the Durham Region Health Department, 905-723-3818

#### 2. The Principal will:

- ensure that signs are conspicuously posted and remain posted at all times.

#### 3. The Tobacco Enforcement Officer will:

- ensure compliance with the signage requirements under the *SFOA, 2017*.

## Smoke-Free Ontario Act Fines: Owners/Employers

Owners/employers may be fined for not posting mandatory 'No Smoking' signs or if the employer permits smoking in a prohibited area.

## Smoking on School Property: Staff, Visitors and/or Community Members

### Enforcement Inspection

If a Tobacco Enforcement Officer receives a complaint regarding staff, visitors or community members smoking or holding lighted tobacco or selling/supplying tobacco on school property one can expect the following to occur.

#### The Tobacco Enforcement Officer will:

- respond to the complaint in a timely manner;
- notify the Principal/Designate (via e-mail or phone call) of the complaint, and ask the Principal/Designate to take action; and
- conduct an inspection.

#### Based on the evidence gathered, the Tobacco Enforcement Officer may:

- issue an offence notice or summons depending on the age of the person and whether he/she has any prior convictions for the same offence.

#### The Principal/Designate will:

- acknowledge the complaint; and
- provide the Tobacco Enforcement Officer with information regarding action in response to the complaint.

A Tobacco Enforcement Officer is available as a resource to the Principal/Designate and will visit the school for an enforcement inspection if requested.

## Student(s) under 16 years of age

### **Step 1: The Principal/Designate:**

- completes the Notice of Offence (identify the name of the school clearly);
  - sends, by FAX\*, a copy to the Durham Region Health Department's Tobacco Enforcement Officer; and
  - holds the original report at the school as potential evidence for court (must surrender it to the Durham Region Health Department when requested by the prosecutor).
- (\*Tobacco Enforcement Officer confidential FAX: (905) 666-1887)

### **Step 2: The Principal/Designate:**

#### **Following the Officer's verification of evidence and decision to lay a charge:**

- sends a Notification of Legal Action letter and a copy of the Notice of Offence to parents/guardians notifying them that a Summons has been issued. Include a copy of Subsection 9: Smoke-Free Ontario Act, Information Sheet for Parents/Guardians; and
  - sends, by FAX\*, a copy of the Notification of Legal Action letter to the Durham Region Health Department's Tobacco Enforcement Officer.
- (\*Tobacco Enforcement Officer confidential FAX: (905) 666-1887)

### **Tobacco Enforcement Officer – Collection and Verification of Evidence from School Officials:**

The Tobacco Enforcement Officer shall make a determination if evidence provided is sustainable and complete, make the final decision to proceed or not and may:

- serve the student with a Provincial Offences Summons (the student answers to the charge in Provincial Offences Court); and
- provide the parent / guardian with a Notice to Parent (pursuant to Section 96 of the Provincial Offences Act) which contains information on the Summons; or
- may issue a warning letter (copied to the student, the school and parents) instead of laying a charge.

### **Repeat Offenders:**

- may be issued a Provincial Offences Summons.

### **Alternative Sentencing:**

Refer to the Appendix D for possible *Alternative Sentencing for Provincial Offences Summons*.

### **Related Fines:**

For a Provincial Offences Summons (for students **16 years of age and under**):

- the student, accompanied by a parent/guardian, must attend and answer to the charge in Provincial Offences Court on predetermined date(s); and
- a fine is set by the Justice of the Peace up to a maximum of \$300.00 for a first offence.

## For Students Aged 16 or 17 Years

### **Step 1: The Principal / Designate:**

- completes the Notice of Offence (identify the name of the school clearly);
  - sends, by FAX\*, a copy to the Durham Region Health Department's Tobacco Enforcement Officer; and
  - holds the original Notice of Offence at the school as potential evidence for court (must surrender it to the Durham Region Health Department when requested by the prosecutor).
- (\*Tobacco Enforcement Officer confidential FAX: (905) 666-1887)

### **Step 2: The Principal/Designate:**

#### **Following the Officer's verification of evidence and decision to lay a charge:**

- sends a Parent Notification of Legal Action letter to the parents/guardians notifying them that a ticket has been issued. Include a copy of Subsection 9: Smoke-Free Ontario Act, Information Sheet for Parents/Guardians; and
  - sends, by FAX\*, a copy of the Notification of Legal Action letter to the Durham Region Health Department's Tobacco Enforcement Officer.
- (\*Tobacco Enforcement Officer confidential FAX: (905) 666-1887)

### **Tobacco Enforcement Officer – Collection and Verification of Evidence from School Officials:**

The Tobacco Enforcement Officer shall make a determination if evidence provided is sustainable and complete, make the final decision to proceed or not and may:

- serve the student with a Provincial Offences Summons (the student answers to the charge in Provincial Offences Court); or
- issue the student a Provincial Offences Ticket; or
- issue a warning letter (copied to the student, the school and parents) instead of laying a charge.

### **Repeat Offenders:**

- may be issued a Provincial Offences Summons.

### **Alternative Sentencing for a Provincial Offences Summons:**

Refer to the Subsection 8, Alternative Sentencing for Provincial Offences Summons: Community Service for possible alternative sentencing.

### **Related Fines:**

For a Provincial Offences Ticket (for students **16 years of age and over**):

- for holding/smoking lighted tobacco/cannabis/vaping on school property the fine is \$305.00 for each offence
- for selling/supplying tobacco/cannabis/vaping products to a person who is less than 19 years of age the fine is \$490.00 for each offence

## Person(s) 18 years of age and over

### **Step 1: The Principal/Designate:**

- completes a Notice of Offence;
- sends, by FAX\*, a copy of the Notice of Offence to the Durham Region Health Department's Tobacco Enforcement Officer;
- holds the original Notice of Offence at the school as potential evidence for court (must surrender it to the Durham Region Health Department when requested by the prosecutor).  
(\*Tobacco Enforcement Officer confidential FAX: (905) 666-1887)

### **Step 2: The Principal/Designate:**

#### **Following the officer's verification of evidence and decision to lay a charge:**

- delivers the letter, Student Notification of Legal Action, to the student; and
- sends, by FAX\*, a copy of the Notification of Legal Action letter to the Durham Region Health Department's Tobacco Enforcement Officer.  
(\*Tobacco Enforcement Officer confidential FAX: (905) 666-1887)

### **Tobacco Enforcement Officer – Collection and Verification of Evidence from School Officials:**

The Tobacco Enforcement Officer shall make a determination if evidence provided is sustainable and complete, make the final decision to proceed or not and may:

- issue the student a Provincial Offences Ticket; or
- issue a Provincial Offences Summons; or
- issue a warning letter (copied to the student and the school) instead of laying charge.

### **Repeat Offenders:**

- may be issued a Provincial Offences Summons.

### **Alternative Sentencing:**

Refer to the Appendix D for possible Alternative Sentencing for Provincial Offences Summons.

### **Related Fines:**

For a Provincial Offences Ticket (for students **18 years of age and over**):

- for holding/smoking lighted tobacco/cannabis/vaping on school property the fine is \$305.00 for each offence
- for selling/supplying tobacco/cannabis/vaping products to a person who is less than 19 years of age the fine is \$490.00 for each offence

<b>Smoke-Free Schools Enforcement Protocol: <i>Notice of Offence</i></b> (Please print clearly or type)		
<b>School Information</b>		
<b>School:</b>	<b>Address:</b>	<b>Tel. #:</b>
<b>Principal/Designate:</b>		<b>Principal/Designate Signature:</b>
<b>Student Information</b>		
<b>Student Name:</b>		
<b>Address:</b>		<b>Postal Code:</b>
<b>Age:</b>	<b>DOB:</b>	<b>Tel. #.:</b>
<b>Parent/Guardian Information</b> (If student is under 18 years of age)		
<b>Parent/Guardian Name:</b>		
<b>Address:</b>		<b>Postal Code:</b>
<b>Res #:</b>	<b>Bus/Cell #:</b>	
<b>Type of Alleged Offence</b>		
<b>Hold/Smoke lighted tobacco/cannabis in a prohibited place</b>	<b>Supply tobacco to a person who is less than 19 years old</b>	
<b>Use electronic cigarette in a prohibited place</b>	<b>Supply vapour product to a person who is less than 19 years old</b>	
<b>Date of Offence:</b>		<b>Time:</b>
<b>Comments:</b> Include details, type of product, location (ie. on the steps of the east entrance of the school)		
<b>Witness Information</b>		
<b>Name:</b>		<b>Title:</b>
<b>Tel #:</b>		
<b>Witness Signature:</b>		

**FAX to:** Tobacco Enforcement Officer, Durham Region Health Department  
**Confidential Fax:** (905) 666-1887; **Phone:** (905) 905-668-2020 toll free 1-800-841-2729

Personal information is collected under the authority of the Health Protection and Promotion Act, R.S.O. 1990 c.H.7, s.5 and is used for the purposes of the Smoke Free Ontario Act, 2017. Questions about this collection of information should be addressed to Durham Region Health Department, Manager, Health Information, Privacy and Security at 605 Rossland Rd. E., P.O. Box 730, Whitby, ON, L1N 0B2 (905) 668-7711. Information available in alternate formats.

# SAMPLE

Smoke-Free Schools Enforcement Protocol: <i>Notice of Offence</i> (Please print clearly or type)	
<b>School Information</b>	
<b>School:</b> <i>ABC School</i>	<b>Address:</b> <i>123 Education Lane, Whitby</i> <b>Tel. #:</b> <i>905-123-4567</i>
<b>Principal/Designate:</b> (print) <i>Mr. Learn</i>	<b>Principal/Designate Signature:</b> <i>Mr. Learn</i>
<b>Student Information</b>	
<b>Student Name:</b> <i>Lawson Breaker</i>	
<b>Address:</b> <i>111 Rules Ave., Whitby</i>	<b>Postal Code:</b> <i>1A1 A1A</i>
<b>Age:</b> <i>16</i>	<b>DOB:</b> <i>November 30, 2002</i> <b>Tel. #:</b> <i>905-765-4321</i>
<b>Parent/Guardian Information</b> (If student is under 18 years of age)	
<b>Parent/Guardian Name:</b> <i>Mr. and Mrs. Breaker</i>	
<b>Address:</b> <i>same as student</i>	<b>Postal Code:</b>
<b>Res #:</b> <i>905-765-4321</i>	<b>Bus/Cell #:</b> <i>905-111-2222</i>
<b>Type of Alleged Offence</b>	
<input checked="" type="checkbox"/> <b>Hold/Smoke lighted tobacco/cannabis in a prohibited place</b>	<input type="checkbox"/> <b>Supply tobacco to a person who is less than 19 years old</b>
<input type="checkbox"/> <b>Use electronic cigarette in a prohibited place</b>	<input type="checkbox"/> <b>Supply vapour product to a person who is less than 19 years old</b>
<b>Date of Offence:</b> <i>December 1<sup>st</sup>, 2018</i>	<b>Time:</b> <i>8:45am</i>
<b>Comments:</b> <i>Include details, type of product, location (ie. on the steps of the east entrance of the school)</i>	
<i>Lawson was smoking a lit cigarette on the school property at the north entrance on the steps</i>	
<b>Witness Information</b>	
<b>Name: (print)</b> <i>Mr. Book</i>	<b>Title:</b> <i>Teacher</i>
<b>Tel #:</b> <i>905-123-4567</i>	
<b>Witness Signature:</b> <i>Mr. Book</i>	

**FAX to:** Tobacco Enforcement Officer, Durham Region Health Department  
**Confidential Fax:** (905) 666-1887; **Phone:** (905) 905-668-2020 toll free 1-800-841-2729

Personal information is collected under the authority of the Health Protection and Promotion Act, R.S.O. 1990 c.H.7, s.5 and is used for the purposes of the Smoke Free Ontario Act, 2017. Questions about this collection of information should be addressed to Durham Region Health Department, Manager, Health Information, Privacy and Security at 605 Rossland Rd. E., P.O. Box 730, Whitby, ON, L1N 0B2 (905) 668-7711. Information available in alternate formats.

(Place on School Letterhead)  
**Parent/Guardian Notification of Legal Action**

Date: \_\_\_\_\_

Dear: \_\_\_\_\_  
(Parent/Guardian Name)

**Re: Smoke-Free Schools Enforcement Protocol**

Please be advised that on \_\_\_\_\_ (date) your son/daughter \_\_\_\_\_ (student's name) was observed, on the property of the school, and/or within the 20m perimeter of school property to be in violation of the Smoke-Free Ontario Act, 2017 by:

- Holding/smoking lighted tobacco/cannabis, **and/or** using an electronic cigarette
- Selling/supplying tobacco/vapour products to a person who is less than 19 years old

A **Notice of Offence** will remain on file at the school. A copy has been forwarded to the Durham Region Health Department's Tobacco Enforcement Officer for legal action.

**Pursuant to Board Protocol, the Tobacco Enforcement Officer may issue:**

- to students under 16 years - a warning letter/*Provincial Offences Summons*
- to students 16 years and older - a *Provincial Offences Summons/Provincial Offences Ticket*
- to repeat offenders (any age) - a *Provincial Offences Summons*

**Please note:** Students who receive a *Provincial Offences Summons* answer to the charge in Provincial Offences Court.

**Fines:**

- Smoking or holding lighted tobacco/cannabis, and/or using an electronic cigarette on school property (or within 20m of school property) carries a **minimum fine of \$305** up to a **maximum fine of \$1000** for a first offence.
- Selling/supplying tobacco products to a person who is less than 19 years old carries a **minimum fine of \$490** up to a **maximum fine of \$8000** for a first offence.
- Selling/supplying vapour products to a person who is less than 19 years old carries a **minimum fine of \$490** up to a **maximum fine of \$4000** for a first offence.

To avoid further legal action, please discuss the legal requirements of the Smoke-Free Ontario Act with your child. Refer to the information sheet attached, **Smoke-Free Ontario Act, 2017 Information Sheet for Parents/Guardians**. If you require additional information, please contact the **Durham Region Health Department**, Tobacco Enforcement Officer, at **(905) 668-2020** or **1-800-841-2729** or visit [Durham.ca/tobacco](http://Durham.ca/tobacco).

Yours truly,

Principal

cc: Durham Region Health Department, Tobacco Enforcement Officer

(Place on School Letterhead)  
**Student Notification of Legal Action**

Date: \_\_\_\_\_

Dear: \_\_\_\_\_  
(Student Name)

**Re: Smoke-Free Schools Enforcement Protocol**

Please be advised that on \_\_\_\_\_ (date) you were observed, on the property of the school, and/or within the 20m perimeter of school property to be in violation of the Smoke-Free Ontario Act, 2017 by:

- holding lighted tobacco/smoking tobacco/cannabis, **and/or** using an electronic cigarette
- selling/supplying tobacco/vapour products to a person who is less than 19 years old

A **Notice of Offence** will remain on file at the school. A copy has been forwarded to the Durham Region Health Department's Tobacco Enforcement Officer for legal action.

**Pursuant to Board Protocol, the Tobacco Enforcement Officer may issue:**

- to students 16 years and older - a *Provincial Offences Summons/Provincial Offences Ticket*
- to repeat offenders (any age) - a *Provincial Offences Summons*

**Please note:** Students who receive a *Provincial Offences Summons* answer to the charge in Provincial Offences Court.

**Fines:**

- Smoking or holding lighted tobacco/cannabis, and/or using an electronic cigarette on school property (or within 20m of school property) carries a **minimum fine of \$305** up to a **maximum fine of \$1000** for a first offence.
- Selling/supplying tobacco products to a person who is less than 19 years old carries a **minimum fine of \$490** up to a **maximum fine of \$8000** for a first offence.
- Selling/supplying vapour products to a person who is less than 19 years old carries a **minimum fine of \$490** up to a **maximum fine of \$4000** for a first offence.

To avoid further legal action please review the legal requirements of the Smoke-Free Ontario Act, 2017. If you require additional information, please contact the **Durham Region Health Department**, Tobacco Enforcement Officer, at **(905) 668-2020** or **1-800-841-2729**, or visit [Durham.ca/tobacco](http://Durham.ca/tobacco).

Yours truly,

Principal

cc: Durham Region Health Department, Tobacco Enforcement Officer

**Action Checklist for Schools**  
**Durham District School Board**  
**Smoke-Free Schools Enforcement Protocol**

***Student under 16 years of age:***

- Complete the Notice of Offence (hold it at the school);
- Send, by FAX\*, a copy of the Notice of Offence to the Durham Region Health Department's Tobacco Enforcement Officer
- (\*Tobacco Enforcement Officer **confidential FAX:** (905) 666-1887)

**If a charge is laid:**

- Send the Parent/Guardian Notification of Legal Action letter to the parents/guardians;
- Attach the Smoke-Free Ontario Act Information Sheet for Parents/Guardians;
- Include a copy of the Notice of Offence;
- Send, by FAX\*, a copy of the Parent/Guardian Notification of Legal Action letter to the Durham Region Health Department's Tobacco Enforcement Officer.
- (\*Tobacco Enforcement Officer **confidential FAX:** (905) 666-1887)

***Student 16 years up to 18 years:***

- Complete the Notice of Offence (hold it at the school);
- Send, by FAX\*, a copy of the Notice of Offence to the Durham Region Health Department's Tobacco Enforcement Officer.
- (\*Tobacco Enforcement Officer **confidential FAX:** (905) 666-1887)

**If a charge is laid:**

- Send the Parent/Guardian Notification of Legal Action letter to the parents/guardians;
- Attach the Smoke-Free Ontario Act Information Sheet for Parents/Guardians;
- Include a copy of the Notice of Offence;
- Send, by FAX\*, a copy of the Parent/Guardian Notification of Legal Action letter to the Durham Region Health Department's Tobacco Enforcement Officer.
- (\*Tobacco Enforcement Officer **confidential FAX:** (905) 666-1887)

***Student/Person(s) 18 years of age and over:***

- Complete the Notice of Offence (hold it at the school);
- Send, by FAX\*, a copy of the Notice of Offence to the Durham Region Health Department's Tobacco Enforcement Officer;
- Deliver the letter, Student Notification of Legal Action, to the student.
- (\*Tobacco Enforcement Officer **confidential FAX:** (905) 666-1887)

## Smoke-Free Ontario Act, 2017

### *Persons under 19*

**3 (1)** No person shall sell or supply any of the following to a person who is less than 19 years old:

1. A tobacco product.
2. A vapour product.
3. A prescribed product or substance.

### *Prohibited places*

(2) The following are the places for the purposes of subsection (1):

3. A school within the meaning of the Education Act.

### *Prohibitions*

**12 (1)** Subject to any exceptions that may be provided for in the regulations, no person shall do any of the following in a place mentioned in subsection (2):

1. Smoke or hold lighted tobacco.
2. Smoke or hold lighted cannabis.
3. Use an electronic cigarette.
4. Consume a prescribed product or substance, in a prescribed manner. 2017, c. 26, Sched. 3, s. 12 (1); 2018, c. 12, Sched. 4, s. 4.

### *Proprietor obligations*

**15** Every proprietor of an enclosed public place or other place or area mentioned in subsection 12 (2) shall,

- a) ensure compliance with subsection 12 (1) with respect to the enclosed public place, place or area;
- b) give notice to each person in the enclosed public place, place or area of the prohibitions under subsection 12 (1) in accordance with the regulations, if any;
- c) post any prescribed signs respecting the prohibitions under subsection 12 (1) throughout the enclosed public place, place or area, including washrooms, in the prescribed manner;
- d) ensure that no ashtrays or similar equipment remain in the enclosed public place, place or area, other than a vehicle in which the manufacturer has installed an ashtray;
- e) ensure that a person who refuses to comply with subsection 12 (1) does not remain in the enclosed public place, place or area; and
- f) ensure compliance with any other prescribed obligations.

### **Inspectors:**

**20 (1)** The Minister may appoint inspectors for the purpose of this Act.

### **Inspection:**

**(2)** Subject to subsection (4), for the purpose of determining whether this Act is being complied with, an inspector may, without a warrant, and at any time, enter and inspect,

- a) any place where a prohibition under section 5, 6 or 12 applies;
- c) any place where the inspector has reasonable grounds to believe that an activity regulated or prohibited under this Act is taking place.

**20 (6)** An inspector conducting an inspection shall produce, on request, evidence of his or her appointment.

**Powers of inspector:**

**20 (7)** An inspector conducting an inspection may:

- a) examine a record or other thing that is or may be relevant to the inspection;
- b) demand the production for inspection of a record or other thing that is or may be relevant to the inspection;
- c) remove for review and copying a record or other thing that is or may be relevant to the inspection;
- d) in order to produce a record in readable form, use data storage, information processing or retrieval devices or systems that are normally used in carrying on business in the place;
- e) remove a sample of a substance or any other thing that is or may be relevant to the inspection or take a specimen that is or may be relevant to the inspection;
- f) question a person on any matter that is or may be relevant to the inspection, including questioning a person separate and apart from others;
- g) if he or she finds that an employer is not complying with subsection 14 (1), direct the employer or a person whom the inspector believes to be in charge of the enclosed workplace, place or area to comply with the provision and may require the direction to be carried out forthwith or within such period of time as the inspector specifies; and
- h) if he or she finds that a proprietor is not complying with section 15, direct the proprietor or a person whom the inspector believes to be in charge of the enclosed public place, place or area to comply with the provision and may require the direction to be carried out forthwith or within such period of time as the inspector specifies.

***Signs***

**23 (1)** The owner or occupier of a place that is subject to a prohibition imposed under section 22 shall ensure that signs are posted at the place in accordance with the regulations.

### Smoke Free Ontario Act, (as amended): Set Fines for Offences

<b>Smoke Free Ontario Act, 2006 Offences</b>	<b>Section</b>	<b>1<sup>st</sup> Offence</b>	<b>2<sup>nd</sup> Offence</b>
Smoking or holding lighted tobacco/cannabis, and/or using an electronic cigarette on school property (or within 20 m of school property)	12(1)	\$305.00- \$1,000	\$5,000
Selling/supplying tobacco products to a person who is less than 19 years old	3(1)	\$490.00 - \$8,000	\$20,000
Selling/supplying vapour products to a person who is less than 19 years old	3(1)	\$490.00- \$4,000	\$4,000
Selling/supplying a prescribed product or substance to a person who is less than 19 years old	3(1)	\$490.00 - \$8,000	\$20,000
Failure to post “No Smoking” signs where smoking is prohibited	14 (1) (C)	\$5000.00	\$10,000 Maximum \$75,000

The set fines listed in the chart above are used when charges are laid using an Offence Notice under Part 1 of the Provincial Offences Act.

The fine imposed by the court may be lower than the set fine if the person charged requests a trial or if he or she pleads guilty and requests the court to impose a lower fine.

In the case of repeated offences, charges may be laid under Part III (Summons) of the Act, and a maximum penalty of \$5000 may be imposed by the court.

## **Smoke-Free Schools Enforcement Protocol: Communication Insert**

Durham District School Board

**The School Code of Conduct should include the expectations below. Please consider using the following insert for your school agenda, website, memos and notices to parents/guardians, etc.**

### **Prohibiting Smoking, Use of Tobacco and Associated Devices**

The Durham District School Board is responsible to work with the Durham Region Health Department to enforce the Smoke-Free Ontario Act, 2017 and promote healthy lifestyle choices.

Expectations:

- Smoking, use of tobacco/cannabis and associated devices, including, but not limited to, e-cigarettes, water pipes, hookahs, etc., are prohibited by any person on school property at any time
- Supplying tobacco/cannabis/vaping products to someone who is under 19 years of age is prohibited

Consequences for Breaching Expectations:

- The administrator will follow Progressive Discipline to address student behaviour
- The Tobacco Enforcement Officer may be involved and has the authority to issue a summons that may result in fines

## Alternative Sentencing for Provincial Offences Summons: Community Service

Alternative sentencing may be considered for all students. Although the emphasis is on students under sixteen years of age, it is also available to a student who is over sixteen.

### **Community Service:**

The Tobacco Enforcement Officer may consider and recommend that community service be completed as a first offence resolution. The Courts and the enforcement division of the Durham Region Health Department strongly support and are in favour of such interventions, since, ultimately, they:

- result in improved compliance;
- require the offending student to accept responsibility for his/her actions; and
- promote parent/guardian interaction and involvement with respect to smoking cessation.

The Health Department's Tobacco Enforcement Officer works with the student and parent/guardian to implement and perform community service. This community service must be separate from the Ministry of Education's mandated 40 hours of community service to meet the requirements for graduation. The community service component may include personal areas of interest of the student. (e.g. working in veterinary clinics, nursing homes, childcare centres, hospitals, Y.M.C.A., etc.)

### **It is the student's responsibility:**

- to seek out the volunteer area according to the pre-agreed sentence with the the Tobacco Enforcement Officer and or Provincial Offences Prosecutor.

### **It is the parent's/guardian's responsibility (for students under 16 years):**

- to ensure the student has transportation to and from the community service activity; and
- ensure that it is completed as agreed to with the prosecutor and or Tobacco Enforcement Officer.

### **Court Monitoring of Alternative Sentencing:**

Enforcement Officers may require the student and parent/guardian to attend court, after the appropriate linkages have been set up and the student is working in his/her selected volunteer area, to ascertain the progress the student has made.

Generally, a second, or in some cases a third, court appearance is made to ensure that the student has fulfilled all the requirements of community service. If the student has been successful, a recommendation is made by the prosecutor to accept a plea of guilt and a suspended sentence is generally granted.

## Smoke-Free Ontario Act: Information Sheet for Parents/Guardians

The Smoke-Free Ontario Act, 2017 says it's against Provincial law for anyone to:

- sell cigarettes, cannabis, or electronic cigarettes/associated devices to youth under 19 years old;
- buy cigarettes, cannabis, or electronic cigarettes/associated devices for youth under 19 years old;
- supply or give cigarettes, cannabis, or electronic cigarettes/associated devices (even one) to youth under 19 years old;
- smoke or hold lighted tobacco, cannabis, or electronic cigarettes/associated devices anywhere on school property or within 20 meters of its property boundary (including playing fields, courtyards, driveways, parking lots and in cars in the parking lots).

### 1. Why does the *Smoke-Free Ontario Act, 2017* prohibit smoking on school property or within 20 m of school property?

Research shows that 80% - 90% of young people start smoking before the age of 19. The goal of the Smoke-Free Ontario Act 2017 is to prevent young people from smoking and to reduce their exposure to second-hand smoke in public places such as schools. By making school property smoke-free province wide, 24 hours a day, 7 days a week, 365 days a year, a clear message is sent that smoking is unhealthy and young people need to be protected from second-hand smoke.

### 2. Who is responsible for enforcing *Smoke-Free Ontario Act, 2017*?

The Smoke-Free Ontario Act is enforced by Durham Region Health Department's Tobacco Enforcement Officers who are responsible for inspecting establishments such as schools, tobacco retail stores, restaurants, workplaces and hospitals.

### 3. What are the consequences of breaking the law?

#### Individuals:

- supplying or selling tobacco to anyone under 19 years old, can be fined up to \$8000;
- smoking or holding a lighted cigarette on school property, can also be fined (this includes smoking in any vehicles on school property).

#### Retailers:

- supplying or selling tobacco to anyone under 19, can be fined up to \$20,000 and can lose their ability to sell tobacco.

### 4. Is it illegal for me to give cigarettes to my son/daughter who is under 19 years old?

Yes! A section of the Smoke-Free Ontario Act 2017 makes it an offence to sell or supply tobacco to anyone under the age of 19 years. Parents have been found guilty and fined for this offence.

### 5. My son, who is under 16, was charged for smoking on school property. Can he send payment of the fine to the court office?

- No! When a youth is under 16 years old, provincial law does not allow the Tobacco Enforcement Officer to issue a 'ticket'. The offence must be dealt with by the courts. The youth will be issued a summons to appear in court at a specific time, date and location. Parents will be notified by a Tobacco Enforcement Officer.
- Youth 16 years of age and over may be ticketed or may be summoned to appear in court. Their parents will not be notified by the Tobacco Enforcement Officer.

**For additional information on tobacco, cessation and/or the *Smoke-Free Ontario Act***, please visit the Durham Region web site: [www.durham.ca](http://www.durham.ca) or call the Durham Health Connection Line at 1-800-841-2729 or 905-666-6241; Monday to Friday from 9 a.m. to 6 p.m.

## What is a Tobacco Product?

Products that contain, or are made from tobacco, are called “tobacco products”.

### **Tobacco products include but are not limited to:**

- Cigarettes
- Cigars
- Cigarillos (small, thin cigars)
- Pipe tobacco
- Beedi/Bidis (a thin Indian cigarette)
- Loose tobacco (sold in pouches)
- Snuff (dry or moist tobacco leaves)
- Snus (Swedish type of smokeless tobacco)

### **Smokeless Tobacco:**

- Is also called spit tobacco, chewing tobacco, chew, dip and plug.
- Is placed inside the mouth to suck and chew on or is sniffed up the nose.

### **Smokeless tobacco is sold in four forms:**

- 1) Chew: Is a leafy form of tobacco sold in pouches. Comes in many different flavours. Users keep the chew between the cheek and gums for several hours at a time.
- 2) Plug: Is chew tobacco that has been pressed into a small brick shape. A user must cut a piece off before placing it in his/her mouth.
- 3) Snuff: Is a powdered, moist form of tobacco sold in tins. Users put the snuff between the lower lip or cheek and the gum. Some users will sniff it.
- 4) Snus: Is a form of moist snuff which may be packaged in small bags like tea bags.

### **Smokeless Tobacco Enforcement:**

#### **Supplying/Selling:**

If staff observes the supplying/selling of any type of smokeless tobacco product on school property, it must be documented on the Notice of Offence form and faxed to the Durham Region Health Department at (905) 666-1887.

#### **Possession or Use:**

The possession and/or use of smokeless tobacco would be dealt with under ***Procedure 5145***.

## **Appendix A – Additional Information**

Ontario Regulation 268/18 will further protect Ontarians from second hand smoke and vapour by prohibiting the smoking of tobacco, the use of an e-cigarette and the smoking of medical cannabis in additional places that were not prohibited under the SFOA, 2017 or ECA:

- Public areas within 20 metres from the perimeter of the grounds of elementary and secondary schools
- The outdoor grounds of a community recreation facility, and public areas within 20 metres of the perimeter of the grounds
- Public areas within nine metres of a restaurant or bar patios

The SFOA, 2017 and its regulation set out limited exemptions for the smoking of tobacco, the use of e-cigarettes, and the smoking and vaping of medical cannabis in:

- Controlled rooms in residential care facilities (e.g., long-term care homes, certain retirement homes, publicly funded supportive housing), designated psychiatric facilities and designated veterans' facilities.
- Guest rooms in hotels, motels and inns that have been designated by the proprietor or employer to accommodate smoking and vaping.
- Scientific research and testing facilities, if the smoking or vaping is for the purpose of conducting research or testing concerning tobacco, vapour products or cannabis.

The SFOA, 2017 and its regulation also include an exemption for the smoking and vaping of medical cannabis and the use of e-cigarettes inside controlled rooms in residential hospices.

- In addition, this regulation supports the implementation of the SFOA, 2017 by prescribing rules regarding required signage for vendors and retailers, conditions for controlled areas, and places where the sale of tobacco and vapour products is prohibited.