

POLICY ISSUE BRIEF:

MARKETING OF TOBACCO AND VAPING TO CHILDREN AND YOUTH

Issue at a Glance

The U.S. Surgeon General reports that smoking remains the leading cause of preventable death and disease in our nation. Every day, nearly 1,100 young people under the age of 18 try smoking for the first time, and an estimated 35,000 young people become daily cigarette smokers every year, according to research from the Centers for Disease Control and Prevention (CDC) in 2024. Approximately 10% of all high school students and 5% of all middle level students have reported using some type of tobacco product. Research conducted for the Campaign for Tobacco-Free Kids in 2008 found that children are three times more sensitive to tobacco advertising than adults and more likely to be influenced by cigarette marketing to smoke than they are by their peers. In addition, one-third of underage experimentation with tobacco products is attributable to marketing by tobacco companies.

In 1998, the attorneys general of the U.S. and the nation's largest tobacco companies agreed to a Master Settlement Agreement (MSA) prohibiting the use of certain types of advertisements and forbidding tobacco manufacturers from "directly or indirectly targeting youth in their promotional activities, or engaging in activities with the primary purpose of initiating, maintaining, or increasing youth smoking." This MSA:

- Prohibits direct or indirect targeting of youth in advertising, marketing, and promotions.
- Prohibits brand-name sponsorship of concerts, sports events, events with an intended audience having a significant percentage of youth, and events with paid participants who are youth.
- Prohibits access by youth to free samples of tobacco products.
- Prohibits payments for placement of tobacco products in the media.
- Prohibits outdoor advertising of tobacco products.
- Prohibits transit ads, on or in public or private vehicles.
- Prohibits using cartoons to advertise tobacco products.
- Prohibits tobacco brand-name merchandise.

However, annual tobacco marketing expenditures among the largest five cigarette manufacturers alone are now up to \$8 billion annually, or \$22 million daily. Further, in 2021, the Federal Trade Commission (FTC) reported that \$859.4 million is spent annually on e-cigarette advertising, a nearly 12% increase over the prior year alone. Also in 2021, Preventative Medicine released an article, "Exploring How Tobacco Advertisements are Associated with Tobacco Use Susceptibility," reporting that "Adolescents who have never smoked and have frequent exposure to cigarette marketing via the Internet or physical stores are more than two times as likely to begin smoking by the time they become young adults versus counterparts who do not have frequent exposures to these advertisements."

Even though tobacco manufacturers are no longer able to advertise to minors and the number of students using regular cigarettes has been decreasing, the number of overall underage tobacco users remains steady due to the popularity of Electronic Nicotine Delivery Systems (ENDS), mainly electronic cigarettes. As of 2023, approximately 22% of middle and high school students report having used electronic cigarettes, according to the CDC. Electronic cigarettes pose a dangerous threat to our nation's youth, as they are much more popular and easily accessible for minors than regular cigarettes. There is extra concern around electronic cigarettes and other ENDS as they are viewed as healthier alternatives to regular tobacco products.

However, the nicotine in electronic cigarettes still poses substantial risks to our nation's youth, as it can inhibit attention and learning development. Minors are also more susceptible to addiction than adults, and the use of nicotine at an early age could lead to a long-term addiction, according to the U.S. Surgeon General. In 2016, the U.S. Food and Drug Administration (FDA) finalized a rule to extend its regulatory authority to all tobacco products, including ENDS. This rule, referred to as the deeming rule, allowed the FDA to declare that electronic cigarettes and other forms of ENDS and their components to be subject to regulation under the Tobacco Act.

Ultimately, the deeming rule prohibits the sale of any ENDS or their components to minors and requires manufacturers to register their products with the FDA to sell them legally. Despite all 50 states and the federal government banning the sale of ENDS to minors, the Public Law Health Center found that many minors have still exploited loopholes to gain access to these devices. This issue is compounded by the marketing of electronic cigarettes. Many of these products feature bright colors and fruit, candy, and/or alcohol or other flavors that youth find attractive and interesting.

Overall, nearly 90% of electronic cigarette users from ages 12–17 use flavors. The CDC also found that in 2021, seven in 10 middle school and high school students had seen some sort of electronic cigarette advertisement. The 2024 National Youth Tobacco Survey also found that over 1.6 million kids in the U.S. were current e-cigarette users and 85% of them used flavored products.

NASSP Position

- NASSP is uncompromising in its commitment to the intellectual growth, academic achievement, character and leadership development, and physical well-being of youth. The negative health implications of tobacco and nicotine use are irrefutable. Sales and marketing of tobacco products and ENDS to minors must remain illegal, and relevant laws must be enforced.
- The Administration eliminated the CDC's Office on Smoking and Health, which has played a critical role in the nation's fight against tobacco. Congress must restore funding for the CDC's lifesaving tobacco prevention and cessation programs so more children will not become addicted or susceptible to death from tobacco use.
- Congress must enact legislation which further prohibits tobacco companies from aggressively targeting youth through highly-addictive, candy-flavored, nicotine-loaded products like e-cigarettes.
- Educators have a responsibility to teach students about the harmful effects of tobacco and nicotine use and to model good behavior.
- All schools should provide a tobacco- and nicotine-free learning environment.

Recommendations for Federal Policymakers

- Policymakers should strengthen the authority of the FDA to regulate the manufacturing, marketing, and sale of tobacco products.
- The FDA and U.S. Department of Justice (DOJ) should revisit and reaffirm the existing Master Settlement Agreement prohibiting the use of certain types of advertisements and forbidding tobacco manufacturers from directly or indirectly targeting youth in their promotional activities.
- FDA and DOJ should revisit and reaffirm the accord between 46 U.S. states and the major tobacco manufacturers that established permanent restrictions on marketing to protect public health, specifically targeting the prevention of youth smoking.
- The DOJ should investigate, audit and hold accountable tobacco manufacturers in violation of the MSA and any increased advertising, promotion, or marketing of tobacco products targeted to youth.
- The CDC's Office on Smoking and Health should be restored to provide health-related research, and guidance for states as additional guardrails are placed on tobacco companies.
- Policymakers should restrict all forms of tobacco and nicotine advertising and promotions that result in increased use of tobacco or nicotine products by minors, in addition to bans on the sale and marketing of tobacco and nicotine to youth.

Recommendations for State Policymakers

- Policymakers should limit all advertising of tobacco and nicotine products within 1,000 feet of schools.
- Policymakers should pass legislation that would outlaw the use of tobacco products or ENDS on all private and public school properties (similar to legislation in the state of New York which prohibits smoking and vaping on public and private school grounds, including within 100 feet of school entrances, under the Clean Indoor Air Act and various education codes).
- Policymakers should revisit and reaffirm their state's accord with major tobacco manufacturers that established permanent restrictions on marketing to protect public health, specifically targeting the prevention of youth smoking.

Recommendations for District Leaders

- Update policies related to tobacco and ensure they include ENDS and address the concerns surrounding them.
- Ensure the use of tobacco products and ENDS is prohibited in school districts.
- Increase coordination and collaboration with parents and families of youth.
- Increase school district-led prevention and intervention campaigns.
- Work with community-based health-related partners and programs on training educators, students, and families.

Recommendations for School Leaders

- Prohibit smoking or vaping by anyone on school grounds.
- Provide anti-smoking and anti-vaping education to all middle and high school students.
- Support legislation for higher tobacco taxes, comprehensive smoke-free laws, and graphic health warnings to prevent tobacco use in youth.
- Mobilize to create a Tobacco-Free Campaign. Train young leaders through programs like Take Down Tobacco and the Youth Advocates of the Year Awards.
- Provide training and mentorship to help students become advocates.
- Create student empowerment opportunities, support groups, and leverage student engagement for advocacy, student leadership, ambassador programs, and awards.
- Activate your school's student council through NASSP's National Association of Student Councils to create student movement and advocacy.
- Implement and create coordinated prevention programs with students, parents and families, and community-based partners.