

FAQs

The Scoop on the New Parental Consent Law and What it Means for Tobacco Prevention and Cessation in NC Schools



Schools are a vital partner in tobacco prevention and cessation efforts, and it is important to understand the New Parental Consent Law as it relates to our ability to educate students in schools about the dangers of tobacco use and vaping or provide tobacco cessation services.

What is the New Parental Consent Law?

North Carolina Senate Bill 49, now referred to as Session Law (S.L.) 2023-106, was passed by the State Legislature on August 16th, 2023¹. Part I of the session law establishes a "Parents' Bill of Rights," Part II outlines new requirements related to parents' involvement in their child's education, and Part III creates a new law on "Parental Consent for Treatment," which addresses the provision, solicitation, or arranging of treatment for a minor by a health care practitioner or health care facility².

Are Tobacco Use Prevention Education or Tobacco Cessation Services considered treatment?

No. Tobacco use prevention education and tobacco cessation services are not treatment.

The new law defines "treatment"¹ broadly as: "Any medical procedure or treatment, including X-rays, the administration of drugs, blood transfusions, use of anesthetics, and laboratory or other diagnostic procedures employed by or ordered by a health care practitioner, that is used, employed, or ordered to be used or employed commensurate with the exercise of reasonable care and equal to the standards of medical practice normally employed in the community where the health care practitioner administers treatment to the minor child"^{1,2}

Services that are not required to be ordered or performed by a "health care practitioner"¹ are not "treatment"¹ requiring advance consent of the parent or guardian under the new law. Specifically, tobacco prevention education and tobacco cessation services are provided by lay persons – meaning a person who is not a "health care practitioner"¹ as defined under G.S. 90-21.10A1 – and do not fit the definition of treatment, even if they happen to be provided by a health care practitioner².

How does the New Parental Consent Law impact Tobacco Prevention in schools?

Schools should continue to provide tobacco use prevention education to students. Schools play a vital role in helping youth abstain from using commercial tobacco and vaping products. Tobacco prevention interventions delivered in school-based settings have proven to be effective in reducing the onset of tobacco use among youth.³ A tobacco prevention education program is not considered treatment and does not require advance parental or guardian consent under the new parental consent law.

Is it considered treatment when a school employee or health department refers students to QuitlineNC or Live Vape Free?

No. As outlined above, since tobacco use prevention education and tobacco cessation services are not considered "treatment,"¹ referral for or provision of tobacco cessation services is not covered under the new parental consent for treatment law.

This includes, for example, peer-to-peer tobacco cessation coaching, which is often provided by trained volunteers or staff who are not required to be health care practitioners.² Even if they happen to be provided by a health care practitioner (e.g., a nurse practitioner who volunteers his time as a tobacco cessation coach), these types of services are not "treatment."^{1,2}

Is written parental consent required to implement a vaping prevention or intervention program in schools?

No. Vaping prevention and intervention programs are not considered treatment and do not require advance parental or guardian consent under the new parental consent law.





How does the New Parental Consent Law impact Tobacco Cessation in schools?

Schools are a vital partner in tobacco cessation efforts, and it is important to understand that the New Parental Consent Law does not impact a school's ability to provide tobacco cessation services.

Schools should continue to provide help for students to quit any tobacco use or refer students to tobacco cessation programs. Because tobacco cessation coaching and assistance is not considered treatment, regardless of who provides it, consent of the parent or guardian is not required under the new law.

Who can provide tobacco and vaping prevention education and interventions in schools (examples: school personnel, health department staff or other community-based agencies/organizations, volunteers)?

School-based tobacco and vaping prevention education can be taught by school personnel, trained health educators, peer educators, community-based organizations, or trained volunteers. Depending on the selected curriculum used, there may be requirements as to who can deliver or facilitate that specific curriculum or program. However, anyone facilitating tobacco and vaping prevention should be knowledgeable, reliable, and well-trained in the subject matter.

What tobacco prevention curriculum should our school be using?

You can find a list⁴ of free and effective options on the NCDHHS Division of Public Health, Tobacco Prevention and Control Branch website. It is important that your school/school district selects the program or curriculum that best fits its needs and capacity. Tobacco prevention and cessation programs should be effective and evidence-based. We do not consider programs promoted or funded by the tobacco or vaping industry to be evidence-based and we encourage you to consider options from our vetted list.

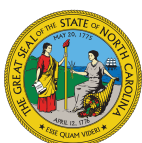
Is there anyone available to help our school/school district to select and/or implement a tobacco prevention or cessation program?

Yes. The Tobacco Prevention and Control Branch has Regional Tobacco Control Managers⁶ who are available to provide technical assistance on tobacco-free policy issues and the implementation of a tobacco prevention and control program, including e-cigarette and vaping educational programs. You can find your Regional Tobacco Control Manager's contact information on the Tobacco Prevention and Control Branch website⁵.

The information provided in this document does not constitute legal advice and does not establish an attorney-client relationship.

References

1. An Act To Enumerate The Rights Of Parents To Direct The Upbringing, Education, Health Care, And Mental Health Of Their Minor Children, Parents' Bill Of Rights N.C. S.B 49 § 114a 1 (2023). [Ncleg.gov/billlookup/2023/s49](https://leg.gov/billlookup/2023/s49)
2. Leloudis KE. Consent to care for minor patients: An update on the legal landscape after S.L. 2023-106, part III. *Unc.edu*. 2024. https://www.sog.unc.edu/sites/default/files/reports/2024-01-10B%202023146_HLB_92_0.pdf
3. U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health. Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General; 2012. <https://www.ncbi.nlm.nih.gov/books/NBK99237/>
4. Tobacco Prevention and Control Branch, Division of Public Health, NC Department of Health and Human Services. Tobacco Prevention Cessation Program Resources for Young People. November 2023. <https://tobaccopreventionandcontrol.dph.ncdhhs.gov/youth/Documents/TobaccoPreventionCessationProgramResources-for-YoungPeople.pdf>
5. Division of Public Health: Tobacco Prevention and Control Branch. <https://tobaccopreventionandcontrol.dph.ncdhhs.gov/>
6. Tobacco Prevention and Control Branch, Division of Public Health, NC Department of Health and Human Services. Tobacco Prevention and Control Branch Funded Regions 2020-2025. <https://tobaccopreventionandcontrol.dph.ncdhhs.gov/images/TPCB-Regional-Map.jpg>



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