

Possession of Nicotine E-Cigarettes

Statutory Provision

Texas Education Code §37.006 requires districts to remove a student from class and place in a disciplinary alternative education program (DAEP) as provided by Section 37.008, if the student possesses, uses, sells, gives, or delivers to another person an e-cigarette, as defined by Section 161.081, Health and Safety Code.

Challenges/Obstacles

The district seeks to prioritize student classroom academic instruction and provide education of the harmful effects of nicotine, wellness and health. Under the new provisions of the statute, students *must* be mandatorily placed at the DAEP for possessing an e-cigarette (vape) containing nicotine. However, a student possessing a cigarette containing nicotine would face other, lesser consequences under the student code of conduct.

The district believes that students possessing a nicotine e-cigarette (vape) would be best served by receiving education from the district regarding nicotine's harmful effects and receiving appropriate consequences at the student's home campus rather than removing the student to the DAEP.

Proposed Innovation/Benefits

Austin ISD continues to work towards eliminating the use of e-cigarettes and vapes. However, we believe the District could more effectively address these student health concerns through education.

The district believes students possessing e-cigarettes containing nicotine should be best supported by providing additional wellness education while remaining on the campus with appropriate consequences for the first offense. Students with second and subsequent offenses may be assigned to the DAEP. The district is not requesting exempt provisions under Section 37.006, which require mandatory removal to DAEP for possessing controlled substances such as marijuana and THC. Additionally, this exemption would not apply to the selling or distribution of any e-cigarettes or vaping products.

Renewals and Amendments

Proposal to the Board for consideration and approval of the amendment to include this statute in the district's local innovation plan during the January 2024 voting meeting.