



Services de santé du

TIMISKAMING

Health Unit

Enhancing your health in so many ways.

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SCHOOL RESPONSIBILITIES, OFFENSES AND PROGRESSIVE ENFORCEMENT UNDER THE SMOKE-FREE ONTARIO ACT, 2017

Dear Principal:

Timiskaming Health Unit is sharing a reminder of roles and responsibilities under the [Smoke-Free Ontario Act, 2017](#) (SFOA), and seeking to collaborate with school officials in a more efficient process for responding to offences under the SFOA.

As you are aware, it has been an offence to smoke on school property since the passing of the Tobacco Control Act in 1994. With the enactment of the SFOA, smoking tobacco or cannabis and vaping has been banned on school properties, as well as public areas 20 metres from the property boundaries.

Role of the School/School Board

As per the SFOA, proprietors and employers of public and private schools must ensure that smoking and vaping laws on school property are followed. A proprietor includes the owner, operator, or person in charge.

Every proprietor and employer of a school must:

- Give notice to staff, students, and visitors that smoking, and vaping are prohibited on school buses, school property, and public areas within 20 metres of school grounds.
- Post “No Smoking” and “No Vaping” signs, or a dual “No Smoking and No Vaping” sign, at entrances, exits, and washrooms of the smoke-free and vape-free areas, in appropriate locations and in sufficient numbers, to ensure that staff, students, and visitors are aware that smoking and vaping are not allowed.
- Ensure that no ashtrays or similar items remain in the smoke-free and vape-free areas.
- Ensure that staff, students, and visitors do not smoke or vape in the smoke-free and vape-free areas.
- Ensure that someone who refuses to comply with Ontario’s smoking and vaping laws does not remain in the smoke-free and vape-free areas.

Offences

As per the SFOA, smoking and vaping are not permitted:

- in schools (as defined under the [Education Act](#)),
- on school property,
- in public areas within 20 metres of school property and,
- on school buses.

It is also illegal to sell or offer to sell tobacco and vapour products in schools. Note that simply possessing a vape device or product is not an offence. This includes holding a vape device that is not activated.

Any individual who violates the prohibition on smoking and vaping in schools or on and around school grounds, may be charged and if convicted, face a maximum fine of \$1,000 (for a first offence) or \$5,000 (for any further offence). Any individual convicted of selling tobacco or vapour products on school grounds could face a fine ranging from \$2,000 to \$50,000, depending on the individual's number of prior convictions.

For a complete list of offences, please refer to the SFOA and the applicable sanctions.

Effective September 2022, Timiskaming Health Unit is requesting that schools follow the below process when any of the following SFOA offences are identified:

- smoke tobacco or cannabis on school property
- hold lit tobacco or cannabis on school property
- use an electronic cigarette (vape)
- hold an activated electronic cigarette anywhere on school property
- Smoke, vape, or hold lit tobacco or cannabis in public areas within 20 metres of school property including streets and roads
- Smoke, vape, or hold lit tobacco or cannabis or hold an activated electronic cigarette on school buses

1st offence

First offence committed by someone **15 years of age or younger:**

- The witness must complete the witness report fully.
- Fax the completed witness report to THU at 705.647.5779 or scan and email to tessierj@timiskaminghu.com.
- The school will be contacted by a Smoke-Free Ontario Act Inspector (SFOAI) to discuss the incident.
- Based on consultation with the SFOAI, where the offender meets certain criteria, a warning letter will be sent to the school by closing the next business day for issuing to the offender and the parent/guardian as soon as practical.
- This letter is to be reviewed by the school administrator with offender and parent/guardian as soon as practical. The letter is to be signed and dated by student and school official and a copy faxed or emailed back to THU. The original is given to the student or parent and a copy retained by the school at their option.

First offence committed by someone **16 years of age and older:**

- The witness must complete the witness report fully.
- Fax the completed witness report to THU at 705.647.5779 or scan and email to tessierj@timiskaminghu.com.
- School will be contacted by a SFOAI to discuss the incident.
- Based on consultation with the SFOAI, where the offender meets certain criteria, a warning letter will be sent to the school by closing the next business day for issuing to the offender and the parent/guardian as soon as practical.

- The letter is to be reviewed with offender as soon as practical. The letter is to be signed and dated by the student and school official and a copy faxed or emailed back to THU. The original is then given to the student and a copy retained by the school at their option.
- If the school wishes for the parent/guardian to be present, that is the school's option

Repeat offence (i.e. The offender has previously received a warning letter or been charged).

Repeat offence committed by someone **15 years of age or younger**:

- The witness must complete the witness report fully.
- Fax the completed witness report to THU at 705.647.5779 or scan and email to tessieri@timiskaminghu.com.
- The school will be contacted by a SFOAI to discuss the incident.
- Based on the discussion, the SFOAI may charge the offender at their discretion at the school. Because the person being charged is a minor, a parent or guardian must be present when the charge is laid. The school will be requested to make arrangements with the parent, guardian, or next of kin to attend.

Repeat offence committed by someone **16 years of age or older**:

- The witness must complete the witness report fully.
- Fax the completed witness report to THU at 705.647.5779 or scan and email to tessieri@timiskaminghu.com.
- The school will be contacted by a SFOAI to discuss the incident.
- Based on the discussion, a SFOAI may charge the offender at their discretion at the school.
- If the school wishes for the parent/guardian to be present, that is the school's option.

Effective September 2022, Timiskaming Health Unit is requesting that schools follow the below process when the following SFOA offence is identified:

As per the SFOA it is an offence to sell tobacco or vaping products to anyone 18 and under.

Sales offence committed by someone **15 years of age or younger**:

- The witness must complete the witness report fully.
- Fax the completed witness report to THU at 705.647.5779 or scan and email to tessieri@timiskaminghu.com.
- The school will be contacted by a SFOAI to discuss the incident.
- Based on the discussion, a SFOAI may charge offender at the school. Because the person being charged is a minor, a parent or guardian must be present when the charge is laid. The school will be requested to make arrangements with the parent, guardian or next of kin to attend.

Sales offence committed by someone **16 years of age or older**:

- The witness must complete the witness report fully.
- Fax the completed witness report to THU at 705.647.5779 or scan and email to tessieri@timiskaminghu.com.
- The school will be contacted by a SFOAI to discuss the incident
- Based on the discussion, a SFOAI may charge student at the school.
- If the school wishes for the parent/guardian to be present, that is the school's option.

SFOA Witness Reports

When any offence under the SFOA has occurred on school property a witness report is required. The following must be part of the witness report to ensure completeness and the ability to prosecute an offence at the Ontario Courts.

- All identifiers complete and accurate including names, dates of birth and addresses.
- A full and thorough statement. In the Offence noted portion the statement **MUST** include the elements of the offence and be detailed.
- If this is a first offence.
- If there was a previous offence – what and when (there is a section near the bottom of the second page for this).
- Level of co-operation by the offender and their attitude towards the offence.
- Parent or guardian notified, level of co-operation, and name of notified party.
- Whether the school applied any other sanctions? (List).
- Whether video surveillance exists of the offence (include video footage if so)

Detail is essential as this document will aid as your notes in court should a trial occur. This document will also assist in securing a guilty plea. **Incomplete witness reports will be returned, and no action can be taken until complete.**

Smoking, Cannabis or Vaping on Smoke-Free and Vape-Free Areas

WITNESS REPORT

Timiskaming Health Unit
247 Whitewood Ave., PO Box 1090, New Liskeard, ON P0J 1P0
Tel: 705-647-4305, Ext. 2227
Fax: 705-647-5779
Email: tessierj@timiskaminghu.com

Date of offence: _____ Time of offence: _____

Name of institution where violation took place: Full name of institution

Address: Full mailing address

Municipality: City or town Postal code: Required

Name of person committing offence: Full legal name

Address: Full mailing address

Town: City or town Postal code: Required

Date of birth: Full DOB and age in brackets Phone Number: Contact number on file for Guardian

Describe what you saw (please be detailed as your comments will be your notes for court):

Offence noted:

Example:

On Tuesday the 6th of September 2022 at approximately 11:11 am, I was checking the bathroom located at the southeast corner of the school.

Upon entering I could smell a vapour smell of banana.

I then observed three students standing by the window. I observed 'John Smith' holding a vape pen which was activated. He brought it to his mouth and inhaled and then exhaled a plume of smoke.

I approached the youths and seized the vape pen.

I know John Smith through my role as the VP at this school John Smith was wearing jeans, a black t-shirt and flip flops. The vape pen was orange and activated when turned over to me. I observed this offence from 10 feet away and there were no obstructions. I secured the vape device as evidence

Please cover the elements of the offence in detail as this will be your notes in court to be referred to.

Points to include in statement

- Location of the offence for both offender and the witness
- Identification of the offender
- If outside the school, distance from the school boundary
- Was the view obstructed
- Was the offender holding a lit tobacco product, lit cannabis or activated vape product
- Was the offender smoking /vaping tobacco, cannabis or vape product.
- Was the prohibited item seized, if so, was it photographed.

Was the person holding: a lighted tobacco? an activated electronic cigarette? lighted cannabis?

Was the person smoking/using: tobacco? an electronic cigarette? cannabis?

Does video surveillance exist of the offence? Yes No (if YES, please include with the witness report)

Do you have an additional observations or comments?

Example:

John Smith was co-operative and turned over the vape device. He admitted his vaping and was co-operative His mother, Susie Smith was contacted and made aware of the incident This is John Smith's first offence He was given a 2-day suspension

* If there is a previous violation, complete the below check box and include the date of previous violation

Points to include.

- level of co-operation
- notifications made
- first offence warnings
- sanctions applied previously or in this instance - suspensions

By signing this you acknowledge that you will be required as a witness if a trial is ordered.

Witness name (please print): _____

Position: _____ Business phone: _____

Signature of witness: _____ Date: _____

<u>Institution – Office Use</u> Previous violation: <input type="checkbox"/> Yes <input type="checkbox"/> No Date of violation: _____	<u>Timiskaming Health Unit – Office Use</u> Warning: <input type="checkbox"/> Yes <input type="checkbox"/> No Part I (PON #): _____ Part III: <input type="checkbox"/> Yes <input type="checkbox"/> No Date of issue: _____ Time: _____
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Notification of Canada - Tobacco Control Information

Information is collected on this form under the authority of the *Smoke-Free Ontario Act*, and will be used to assist in tobacco related investigations. Personal information will be treated as confidential and used only in legal proceedings.

To meet public health requirements, any personal information on this form is collected under the authority of one or more of the following (as amended) and related regulations: *Health Protection and Promotion Act, R.S.O. 1990; Smoke Free Ontario Act, S.O. 2017; Skin Cancer Prevention Act, 2013, S.O. 2013; Healthy Menu Choices Act, 2015, S.O. 2015; Safe Drinking Water Act, 2002, S.O. 2002; Ontario Building Code Act, 1992, S.O. 1992; Funeral, Burial and Cremation Services Act, 2002, S.O. 2002; Environmental Protection Act, R.S.O. 1990; Regulated Health Professions Act, 1991, S.O. 1991; and is in compliance with the *Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990* and the *Personal Health Information Protection Act, 2004, S.O. 2004*.*

Questions about this collection should be directed to the Program Manager at Timiskaming Health Unit, 247 Whitewood Ave., Unit 43, New Liskeard, ON P0J 1P0 705.705.647-4305, Ext. 2250.