



FINES OR FEES: ENFORCEMENT OF SMOKE- OR TOBACCO-FREE POLICIES

MINNESOTA STATE COLLEGES AND UNIVERSITIES SYSTEM

September 2010

A CRITICAL component of a successful policy is effective enforcement. As more and more campuses in Minnesota consider smoke-free or tobacco-free policies, questions have come up regarding the use of fines or fees as two options to enforce the policies. This fact sheet addresses that issue for colleges and universities in the Minnesota State Colleges and Universities System (MnSCU). MnSCU is a system of 32 public colleges and universities with locations throughout the state of Minnesota, but does not include the University of Minnesota campuses or private colleges.

Q What is a fine?

A A fine is a sum imposed as punishment for a policy offense. Monetary penalties for violations of campus parking or traffic regulations are examples of fines issued by some MnSCU schools.

Q What is a fee?

A A fee is a charge for labor or services. An example of a fee could be an amount charged individual students for health care services.

“Students violating a smoke-free or tobacco-free policy could be charged a fee”

Q May MnSCU impose a fine on students for violating a student smoking or tobacco use policy?

A Most likely not. MnSCU is a state agency and state agencies are given certain authority and powers by the state legislature. The legislature has not given MnSCU the express author-

ity to impose fines other than for traffic or parking violations. In its role as a state agency, MnSCU may not decide to enlarge its authority beyond what the legislature has granted.

Q May MnSCU impose a fee on students for violating a student smoking or tobacco use policy?

A Yes. MnSCU has been given authority by the legislature to establish policies for the educational institutions in its system, including setting fees for services.¹ Some of the fees included in the board policies are application fees, late fees, health services fees and technology fees.² MnSCU may impose a fee on students for violating a smoking or tobacco use policy because it may impose fees, or service charges, to discourage certain behaviors and to pay for resulting damage.

Q May individual state colleges and universities impose a fee on students for violating the smoking policy?

A Yes. MnSCU gives discretion to the presidents of the individual colleges and universities to establish charges for a variety of services and activities. These charges include fees for health services, access to athletic events, general student activities and use of computers and other technology. Students violating a smoke- or tobacco-free policy could be charged a fee for costs associated with clean-up of cigarette butts or other tobacco use litter, but the fee must be based on the actual costs of cleaning up the litter and not be simply punitive.

Q If MnSCU, a college, or a university imposes a fee, could the fee also apply to faculty, staff and other employees?

A Yes. The fee could also apply to faculty, staff and other employees based on the authority given to MnSCU to enter into contracts or agreements. The fee could be included in contract negotiations and collective bargaining agreements and documented in an employee manual.



Q What options do colleges and universities have for enforcing a smoke-free or tobacco-free policy against the general public?

A Fees may not be imposed on the general public. If visitors violate the smoke-free or tobacco-free policy, they may be asked to leave the campus. Also, if a college or university establishes smoke-free areas on campus with prominent signage indicating the area is non-smoking, individuals violating the policy may be charged by local law enforcement with a petty misdemeanor.³ Although schools may not impose fees on the general public, they may inform the public about the potential petty misdemeanor charge.



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¹ MINN. STAT. § 136F.06 (2009).

² Minnesota State Colleges and Universities, Board Policies, *available at* <http://www.mnscu.edu/board/policy/511.htm>

³ MINN. STAT. § 609.681 (2009), “A person is guilty of a petty misdemeanor if the person intentionally smokes in a building, area, or common carrier in which “no smoking” notices have been prominently posted.”