SUMMARY OF CHANGES

This regulation supersedes Chancellor's Regulation C-810 dated May 3, 2005.

Changes:

- The policy section has been updated to prohibit smoking within 100 feet of the entrances, exits, or outdoor areas of any DOE building or structure. (See Section I, p.1).
- The implementation section has been updated regarding the posting of "No Smoking" signs. (See Section III, p.1).
- The Director of School Safety and Administrative Support is directed to inform all current and future School Safety agents of this proposed regulation. (See Section III.C, p.2).

ABSTRACT

The New York City Department of Education ("DOE") maintains a strict Smoke-Free Environment Policy as described in this regulation. On September 5, 2012, New York State amended public health and education law to add a new subdivision entitled "The Smoking Limits - School Buildings and Grounds Law of 2012", N.Y. Ed. Law § 409 and N.Y. Public Health § 1399-o as amended by NY Law 2012 Sess. Laws of N.Y. Ch. 449 (Sept. 25, 2012), which specifically prohibits smoking within 100 feet of the entrances, exits, or outdoor areas of any school building or structure. In addition, the existing law prohibits the use of tobacco on school or building grounds, including outdoor grounds. This regulation sets forth existing policy and aligns the regulation with current law.

I. SMOKE-FREE ENVIRONMENT POLICY AND SMOKING LIMITS

All areas of the DOE are smoke-free without exception. Smoking and use of any tobacco product, including chewing tobacco, is prohibited; this includes all indoor and outdoor DOE facilities and city vehicles. Smoking is also prohibited in private enclosed offices, conference and meeting rooms, cafeterias, lunchrooms, or employee lounges. Smoking is prohibited anywhere on school grounds and other DOE outdoor facilities including playing fields, school yards, entrances and exits to buildings, parking lots, etc. Smoking is prohibited by employees while they are on duty supervising children, whether they are on or off school grounds.

Moreover, in accordance with the recently passed New York state law, smoking is now prohibited within 100 feet of the entrances, exits or outdoor areas of all DOE schools and buildings.

II. COMPLIANCE

Compliance with the Smoke-Free Environment Policy and Smoking Limits is mandatory for all students, employees and persons visiting Department of Education facilities and property. Employees who violate this policy are subject to disciplinary action. Furthermore, persons standing within 100 hundred feet of the entrances, exits or outdoor areas of DOE schools and building may not smoke.

Smoking by students is also prohibited and is a Level 2 Infraction (A11 for grades K-5; B13 for grades 6-12) under the DOE's "Discipline Code."

III. IMPLEMENTATION OF POLICY AND REGULATIONS

A. Each principal of a school in a DOE building (including charter schools located in DOE buildings), or his /her designee shall take the following actions:

1. Post "**NO SMOKING**" signs prominently in at least at one central location on the school's premises, such as in the main office, central bulletin boards, and cafeterias (See Attachment No. 1 to this Regulation); and
2. Each year, remind all DOE employees and staff of the Smoke-Free Environment and Smoking Limits policy; and
3. Inform all new employees of the policy when hired.

B. Each Building Captain[1] in a DOE building that does not contain a school shall take the following actions:

1. Post **"NO SMOKING"** signs prominently in at least one central location on the building's premises, such as in the main office, at the security desk, or in the cafeteria (See Attachment No. 1 to this Regulation) ; and

[1] A building captain is equivalent to a principal in a non-academic building. All DOE administrative offices have an appointed building captain that handles administrative issues that affect the whole building.

2. Each year, remind all DOE employees and staff of the Smoke-Free Environment and Smoking Limits policy; and
3. Inform all new employees of the policy when hired.

C. The Director of School Safety and Administrative Support shall ensure that all school safety officers are made aware of this regulation and shall take the following actions:

1. Distribute a summary of the regulation to all school safety officers upon posting of this regulation; and
2. Distribute a summary of this regulation to all new hires.

IV. DISPUTE RESOLUTION PROCEDURES

A. Employee disputes arising out of implementation of the Smoke-Free Environment Policy and Smoking Limits regulation shall be addressed and resolved in the following sequence:

1. in a school, the Principal;
2. in a central division, office, or network, the Executive Director, Director, or Network Leader.

B. A dispute that is still not resolved shall be submitted in writing to the DOE's Office of Labor Relations and Collective Bargaining, 49 Chambers Street, New York, New York 10007. After examining the facts of the dispute, a finding will be made and a recommendation for the solution of the problem will be submitted to the Chancellor.

C. The Chancellor or his/her designee shall issue a decision to resolve the dispute. The decision of the Chancellor or his/her designee is final, and there shall be no further appeal.

V. PROTECTION FROM ADVERSE PERSONNEL ACTION

Employees or applicants for employment who exercise or attempt to exercise any rights granted under this Regulation shall be protected from any retaliatory adverse personnel action. Such adverse personnel action includes, but is not limited to dismissal, demotion, suspension, disciplinary action, negative performance evaluation, any action resulting in loss of staff, compensation or other benefit, failure to hire, failure to appoint, failure to promote, or any transfer or assignment or failure to transfer or assign against the wishes of the affected employee. Existing established procedures may be invoked to obtain redress for any such adverse personnel action taken against an employee in retaliation for that employee's attempt to exercise his or her rights under this Regulation.

VI. APPLICABILITY OF COLLECTIVE BARGAINING PROCEDURES

Nothing in this Regulation shall be construed to impair, diminish, or otherwise affect any collectively bargained procedure or remedy available to a DOE employee.

VII. INQUIRIES

Inquiries pertaining to this regulation should be addressed to:

Telephone:	*Office of Employee Relations* N.Y.C. Department of Education 65 Court Street – Room 617 Brooklyn, NY 11201	Fax:
718-935-5878		718-935-5472