

California Tobacco Control Program

Youth Electronic Smoking Device Purchase Survey (YEPS) Protocol

Purpose: This protocol provides guidance to local tobacco control projects regarding how to conduct undercover electronic smoking device purchase surveys performed by minor decoys under 18 years of age. It provides direction on performing a scientific survey used to assess the level of compliance with Health and Safety Code Section 119405 which prohibits the sale or furnishing of electronic smoking devices to anyone under the age of 18. However, this protocol is not intended for use with compliance checks that involve an enforcement component or that may result in presenting evidence in a civil administrative hearing or court of law. This survey protocol was developed in partnership with local health departments, community-based organizations, and evaluation experts who are experienced in conducting youth tobacco or electronic smoking device purchase surveys.

I. Youth Electronic Smoking Device Purchase Survey Checklist: Before conducting surveys, the following items must be addressed:

- A. Youth Recruitment and Consent:** If you do not already have a pool of available trained youth, begin by recruiting youth from peer leadership programs, tobacco or alcohol prevention youth coalitions, schools, churches, friends and neighbors, etc. Recruit youth who will demographically “match” the neighborhoods where the store surveys will be conducted to ensure that the youth “fit in” with the store environment and to avoid tipping off store personnel that a survey is underway. Older teens and girls tend to be more successful at purchasing tobacco products; the same is likely to be true for electronic smoking devices. In order to ensure that your results are not biased due to the age or gender of the decoys, aim to recruit an even number of girls and boys and older and younger teens. The completion of the visits will vary in length of time depending on the geographic location and amount of stores being visited; therefore the needs of the project should be carefully assessed when determining the number of youth investigators that need to be recruited.

Prior to the completion of any survey, it is mandatory that projects obtain and maintain a signed Parental Consent Form for each youth investigator (see section I.C below for more details). It is also recommended to have youth investigators sign a Youth Investigator Assent Form to advise them of their duties.

See the sample **Youth/ Parental Consent Form** in **Appendix A**.

- B. Description of Youth Investigator Role:** In this survey, youth investigators visit stores or electronic smoking device retailers and try to buy an electronic smoking device. The stores are pre-selected to represent different neighborhoods and locations. Youth investigators will be accompanied by an adult. The adult generally advises the youth investigator on what tobacco product to ask for during the attempted buy. The youth investigator never performs survey activities without the adult being present. Immediately after attempting to purchase the electronic smoking device, the youth returns to the adult, who records the information on the data collection instrument. If an electronic smoking

device is successfully purchased it is given to the adult, who turns the product in to the tobacco control project staff.

Prior to participating in the purchase survey, the youth investigator participates in a training session. During this training, the youth investigator will learn that electronic smoking devices are harmful and that the purpose of this survey is to try to stop stores from selling electronic smoking devices to youth. In addition, the youth investigator learns how to ask for electronic smoking device and what to say when the salesperson interacts with them. This is to include role-playing in which youth investigators have the opportunity to practice asking to buy different types of electronic smoking devices. The youth investigator may receive payment in the form of a gift card or other incentive provided by the tobacco control project.

- C. Parental Consent:** First consider using your agency's pre-existing procedures for obtaining parental consent for the youth investigator. Parental Consent and Youth Assent Forms should be stored in a secured area (e.g., a locked filing cabinet) to maintain the confidentiality of the youth investigators. If your agency does not already have a parental consent form, see the sample 'Parental Consent Letter' template in **Appendix A**.

The Parental Consent Form should include:

- a. Date of birth of minor
- b. Signature of parent confirming date of birth or copy of birth certificate
- c. Signature of parent giving permission for youth to participate

Provide a fact sheet related to youth purchase surveys so that parents fully understand the scope of the activity. See a sample fact sheet in **Appendix B**.

Explain to parents that during the time their child participates in this survey, s/he will visit each store and attempt to purchase an electronic smoking device. An adult will accompany the youth at all times to:

- Ensure your child's safety
- Ensure that the protocol is being adhered to
- Perform record-keeping activities
- Confiscate all purchased electronic smoking devices.

In advance of visiting the stores in a specific location, every youth investigator will meet the adult volunteer who will accompany them. The project director or accompanying adult may inform the parents in advance of the general area that the youth investigator will be visiting; however, neither they nor the youth investigator may release the actual names of the stores visited.

- D. Adult Volunteer Role and Consent:** The role of the adult volunteer is to accompany the youth investigators into the store to ensure their safety. If any problem arises with the store clerk it is the adult's role to intervene. The adult volunteer is there to ensure the survey protocol is adhered to (e.g., only going to the stores on the survey list). The adult volunteer performs the record-keeping activities (e.g., recording time, decoy ID, attempted buy result) and collects all of the electronic smoking devices

purchased for the survey for the program staff. Adult volunteers should also carry an immunity letter/informational letter. (Example letter found in **Appendix D**).

Consider using your agency's existing procedures for obtaining background checks for volunteers. The adult volunteers should undergo clear thorough background checks via the Department of Justice (DOJ) Live Scan process. If your agency does not have access to Live Scan, you can go to the [DOJ website](#) for information regarding conducting your own background checks. If the adult volunteer is driving, they need to provide proof of insurance and have a clean driving record, (e.g., no moving violations in the past three years). The adult volunteer also must attend training on the Youth Electronic Smoking Device Purchase Survey protocol so that they understand their roles and responsibilities.

See the sample **Adult Volunteer Consent** form in **Appendix C**.

- E. District Attorney and Law Enforcement Consent.** Existing state law prohibits a retailer from selling electronic smoking devices to minors. Existing law also exempts a minor from prosecution under the STAKE Act while the minor is participating in an activity conducted by a local health department for the purpose of determining or evaluating youth tobacco purchase rates. Programs should prepare an informational letter to the District Attorney and local law enforcement agencies describing the purpose of the survey, the inclusion of electronic smoking/vaping devices, and the date and locations of surveys.

See a sample **Informational Letter** in **Appendix D**.

- F. Identifying Tobacco Retailers and Vape Shops:** There are several options for identifying potential retailers to survey, including:

- 1) Accessing a current list of tobacco retailers by the State of California's Board of Equalization (BOE). As of 2014, 65% of licensed tobacco retailers in California also sold electronic smoking devices. Programs may obtain a current list of licensed tobacco retailers from the BOE. To request a list of retailers in your city and/or county, Project Directors should submit a request to the BOE at PSTD-STFD-PPABDataRequests@boe.ca.gov.

The written email request should include the following information:

1. Name and job title of the requester
2. Requester's employer
3. The city and/or county the requested list(s) correspond(s) to
4. Explanation of why the list(s) is/are needed.

Note: In your request to the BOE, it is important for you to make it clear that the list will be used to conduct inspections of illegal tobacco sales to minors under the authority of your county. For additional information about the list of licensed tobacco retailers contact the BOE's Program Policy and Administration Branch at (916) 323-0206.

- 2) Utilizing a local tobacco retailer licensing list. Programs surveying a jurisdiction with a local tobacco retailer licensing policy requiring electronic smoking device vendors to obtain a license may contact the local licensing agency to request a list of licensed retailers.

- 3) Utilizing the list of vape shops developed by researchers at Stanford University. CTCP has a list of vape shops in California that was developed by Stanford University, which can be made available to CTCP-funded projects upon request. This list contains only those shops that identify as “vape shops.” This list can be used to augment one of the two list-development approaches described above. It is important to develop a comprehensive list in order to ensure the data accurately represent retailers in the city/county of interest. Contact Elizabeth Andersen-Rodgers at Elizabeth.Andersen-Rodgers@cdph.ca.gov to request the vape shop list for your jurisdiction.

- 4) Searching the internet or canvassing to identify electronic smoking device retailers that do not sell traditional tobacco. Programs may also conduct their own search to identify electronic smoking device retailers that do not sell traditional tobacco products (as they would not be included on the list from BOE) and are therefore not currently required to obtain a state tobacco retailer license. This list can be added to the BOE list of retailers for your jurisdictions of interest.
 - Search yelp.com using key words like “vape shops”, “e-cigarette,” or “electronic smoking device”. Yelp typically has a fairly comprehensive list of vape shops. Please review this [article](#) by Steve Sussman on Yelp reviews of vape shops.
 - Search yellowpages.com and maps.google.com using similar key words, to find additional stores.
 - Smaller jurisdictions should consider canvassing the area to identify vape shops by driving through all commercial areas and entering stores to verify whether they sell electronic smoking devices. Try to be as inconspicuous as possible so as not to tip off retailers of a possible upcoming inspection.

Note: It is important to clean lists and remove bars or establishments that are only accessible to those ages 18 or 21 and over, and retailers that require a fee to enter, (e.g., Costco, golf courses). Vape shops or vape lounges that allow vaping indoors should be excluded as well because of possible exposure to second-hand aerosol.

Once you have identified potential retailers to survey, you will need to determine which of these stores to survey.

G. Sample Size and Selection of Stores. The survey sampling plan depends on the purpose of the survey as well as the geographical areas of interest.

- 1) To obtain an illegal sales rate for electronic smoking devices, you will need to either survey all electronic smoking device retailers in the area of interest or, in areas with a high number of retailers, draw a sufficiently large random sample of electronic smoking device retailers to represent the area. In an area with fewer than 35 eligible retailers, all electronic smoking device retailers should be surveyed. For assistance with calculating the sample size for areas with a

large number of retailers, a sample size calculator is available here:
<http://www.surveysystem.com/sscalc.htm>.

- 2) If you are interested in comparing the illegal sales rate for electronic smoking devices with an illegal sales rate for traditional cigarettes or other tobacco products in the same area, the cleanest method is to draw two separate samples, one for electronic smoking device retailers and one for traditional cigarette retailers. There will likely be some overlap in the samples, so some stores may need to be visited on two separate occasions, once asking for electronic smoking devices and once for traditional cigarettes. Consider using different youth on each occasion when visiting the same store to avoid arousing suspicion. If you want to obtain an illegal sales rate for *any* tobacco product (of which electronic smoking devices is one type), you may sample stores that sell any kind of tobacco (not just electronic smoking devices) and divide your sample so that youth ask for different tobacco products in different stores. Please note that this does not generate an illegal sales rate for electronic smoking devices specifically, but rather a rate for tobacco products in general.
- 3) Other sampling designs, such as clustered sampling and stratified sampling, may be options for vary large areas when the study logistics are of concern, or specific populations are of particular interest.

Contact TCEC for additional assistance with sampling decisions.
<http://tobaccoeval.ucdavis.edu/index.html>

H. Prepare the routes for the stores and the list of retailers. The routes for store visits and list of retailers must be prepared ahead of time. Be sure to have names and addresses and identify places to park away from the store entrance. Rotate the time and day of the week of the surveys (e.g., conduct some surveys after school, some on weekends, and some on school vacation days). If possible, the vehicles used should be rotated with one another. Do not use a marked municipal or police vehicle.

II. Training: All youth investigators, adult volunteers, and staff must complete training prior to conducting the Youth E- Cigarette Purchase Survey as well as participate in an evaluation of the training. Throughout the project, staff will discuss with the youth and adult volunteers that the sale of electronic smoking devices to persons under the age of 18 is illegal and that they are attempting to purchase electronic smoking devices for surveillance purposes to inform tobacco control efforts to prevent youth tobacco use.

The focus of the training should be to:

- Explain the purpose of survey and the protocol.
- Role-play how the youth might ask for electronic smoking devices and various responses to questions asked by retailers. Youth should be trained to ask for electronic smoking devices in a realistic manner. S/he should not try to look older or younger than his/her true age.
- Discuss any problems that may arise and ways to deal with them.
- Be sure to include several role-play practice buys with adults in the training. This allows youth investigators to speak more naturally when interacting with clerks. Devices to ask for should be determined based on popular brands in local areas. Some examples are Blu or NJOY. Please contact the California Youth Advocacy Network (www.cyanonline.org) or the California Tobacco Control Program (CTCP) for technical assistance in selecting brands.

- Explain to youth that they have special permission to attempt to purchase electronic smoking devices only while they are working on this project.
- Provide basic electronic smoking device information to the youth to discourage them from initiating use of electronic smoking devices. Review CTCF's electronic smoking device PowerPoint presentation *Electronic cigarettes: Why should we care?* This can be found on the [Partners website](#) under the Health Store for Healthy Community campaign sub site.
- Provide a forum for general discussion and problem-solving.
- Provide guidance to any youth who may not be appropriate to participate as a youth investigator, due to their age or performance in the training. These youth may take on a different role in the project, such as assisting with recording data.

Please see [STAKE Training Manual](#) for a sample protocol to adapt.

III. Recommendations for Procedure for Attempted Buy (Standard, Flash ID, Claim to 18)

Please note the Youth Electronic Smoking Device Purchase Survey protocol is to be implemented consistently across all buy attempts. The recommended standard protocol is consistent with the statewide Youth Tobacco Purchase Survey (YTPS) protocol. If the local jurisdiction has recently conducted a tobacco YTPS and would like to compare rates with YEPS, they should follow a similar protocol for the electronic smoking device YPS as that which was used for the local tobacco YTPS to ensure comparability of results. Criteria for youth investigators utilizing any of the protocols listed below are as follows:

- Youth investigators should be between 15 and 16 years old. Depending upon the program's needs, an exception can be made for youth who are 14 years. However, it's important to note that working with 14-year-old investigators may have the effect of lowering the rate of illegal sales. Including 14-year-olds will also affect the survey results' comparability to the State YTPS rates. The use of 17-year-olds is not recommended because the youth are so close to the legal age of sale and their participation may evoke criticism from retailers when the survey results are shared.
- Take a picture of the youth on the day of the survey with something to verify the date, such as a newspaper. The picture can be used to demonstrate their appearance was not altered to influence retailers' behavior.
- Youth investigators must be willing and able to ask to buy electronic smoking devices.
- Youth investigators must complete training prior to conducting surveys.
- Youth investigators must have parental consent to participate prior to conducting surveys.

Standard Protocol: If using the recommended standard protocol, youth investigators who are asked their age are not to lie and must respond to the clerk with their actual age. Youth do not carry ID, and they should not try to look older or younger than their actual age. The Standard protocol option is closest to the current Statewide Youth Tobacco Purchase Survey protocol, which is used for Synar reporting purposes to the federal Centers for Substance Abuse and Prevention. It should be utilized to obtain a rate of electronic smoking device sales to minors that is comparable to the statewide tobacco sales rate to minors. A disadvantage of using the standard protocol is that it may result in a lower sales rate than other protocols because it may not mimic how youth behave in a "real world" situation.

Flash ID Protocol: If using the Flash ID protocol, youth investigators need to carry valid student identification (ID) with picture or a government-issued California ID. The type of ID must be consistent for all youth, So that either all youth have student ID or all have California ID. The Flash ID protocol is closest to the Stop Tobacco Access to Kids

Enforcement (STAKE) Act compliance check protocol used by the California Department of Public Health Food and Drug Branch (FDB), which is not used to generate a sales rate to minors, but is used to issue citations to violating stores. A disadvantage of the Flash ID protocol is that obtaining an official ID requires time and money. Most projects do not have funding to obtain state-issued IDs and not all youth have school ID. This protocol is also not consistent with the Statewide YTPS protocol and the results obtained will not be comparable to state tobacco compliance rates.

Claim-to-be-18 Protocol: If using this protocol, youth investigators need to state that they are 18 years old, only if asked. Regardless of the protocol used (Standard, Flash ID, or Claim-to-be-18) youth should not try to look older or younger than their actual age. The use of the Claim-to-be-18 protocol is at the discretion of each project; however, all youth must be consistent with stating their age as 18 if asked. One advantage of this protocol is that it may be more in line with the real-world inclination of many youth to say they are 18 when asking to buy electronic smoking devices or other tobacco products. Some disadvantages of utilizing this protocol are that parents may be uncomfortable allowing their teen to be dishonest, retailers might accuse the project of entrapment by youth, and that the protocol is not consistent with the Statewide YTPS protocol, so the results will not be comparable to the state tobacco compliance rates.

IV. Attempted Buy Procedure Protocols

Standard Protocol

- 1) Before the youth enters the store, the accompanying adult gives the youth enough money to purchase an electronic smoking device. The youth will leave his/her ID in the car or give it to the accompanying adult to hold.
- 2) Youth should not attempt to purchase electronic smoking devices if they know anyone inside the store. If this occurs, send another youth into the store if available or go back to the store later.
- 3) The adult will first enter the store and pretend to shop. The youth will then enter after 1-2 minutes and go directly to the cashier. The youth will ask for an electronic smoking device brand popular among youth that contains nicotine, as assigned ahead of the purchase attempt by the project director. If the electronic smoking devices are not located behind the counter, the youth will select one from the display and bring it to the cashier.
- 4) If the retailer proceeds to sell the merchandise without any additional questions, the youth is to pay for the purchase, take the receipt if offered, and leave. Youth should never ask for a receipt.
- 5) If the retailer asks the youth's age, the teen is instructed to tell the truth.
- 6) If the retailer asks for identification, the youth is instructed to tell the retailer that s/he doesn't have the ID with him/her.
- 7) If anyone else talks to the youth (e.g., comments on how young they are to be buying electronic smoking devices, etc.), the youth is instructed to politely ignore them.
- 8) If any electronic smoking devices are sold, the youth is to keep track of the price.
- 9) If the clerk does not sell the electronic smoking device, the youth must simply leave the store and go directly to the car. The youth must not plead with or continue to interact with the clerk.
- 10) The adult will make a small purchase and meet the youth at the car. The youth will report the above information immediately after each transaction for the adult to record on the data sheet.
- 11) The electronic smoking device bought by youth will be kept in a bag labeled with the date and location of retailer and handed to adult volunteer.

Flash ID Protocol

- 1) Before the youth enters the store, the accompanying adult gives the youth enough money to purchase an electronic smoking device. The youth brings his/her ID into the store.
- 2) All youth involved in the survey must use the same ID type such as a school ID. There should not be a mix of ID types used by the youth (e.g., do not have some youth using state-issued IDs and some using school IDs).
- 3) The adult will first enter the store and pretend to shop. The youth will enter after 1-2 minutes and go directly to the cashier. The youth will ask for an electronic smoking device brand popular among youth that contains nicotine, as assigned ahead of the purchase attempt by the project director. If the electronic smoking devices are not located behind the counter, the youth will select one from the display and bring it to the cashier.
- 4) If the retailer proceeds to sell the merchandise without any additional questions, the youth is to pay for the purchase, take the receipt if offered, and leave. Youth should never ask for a receipt.
- 5) If the retailer asks the youth's age, the teen is instructed to tell the truth.
- 6) If the retailer asks for identification, the youth is to quickly show their ID to the retailer while they are holding onto the ID.
- 7) If anyone else talks to the youth (e.g., comments on how young they are to be buying cigarettes, etc.), the youth is instructed to politely ignore them.
- 8) If any electronic smoking devices are sold, the youth is to keep track of the price.
- 9) If the clerk does not sell the electronic smoking device, the youth must simply leave the store and go directly to the car. The youth must not plead with or continue to interact with the clerk.
- 10) The adult will make a small purchase and meet the youth in the car. The youth will report the above information immediately after each transaction for the adult to record on the data sheet.
- 11) The electronic smoking device bought by youth will be kept in a bag labeled with the date and location of retailer and handed to adult volunteer.

Claim-to-be-18 Protocol

- 1) Before the youth enters the store, the accompanying adult will give the youth enough money to purchase an electronic smoking device. The youth will leave his/her ID in the car.
- 2) The adult will first enter the store and pretend to shop. The youth will enter after 1-2 minutes and go directly to the cashier. The youth will ask for an electronic smoking device brand popular among youth that contains nicotine, as assigned ahead of the purchase attempt by the project director. If electronic smoking devices are not located behind the counter, the youth will select one from the display and bring it to the cashier.
- 3) If the retailer proceeds to sell the merchandise without any additional questions, the youth is to pay for the purchase, take the receipt if offered, and leave. Youth should never ask for a receipt.
- 4) If the retailer asks the youth's age, the youth must say they are 18.
- 5) If the retailer asks for the youth's ID, the youth should tell the retailer that s/he doesn't have the ID with him/her.
- 6) If anyone else talks to the youth (e.g., comments on how young they are to be buying cigarettes, etc.), the youth is instructed to politely ignore them.
- 7) If the clerk does not sell the electronic smoking device, the youth must simply leave the store and go directly to the car. The youth must not plead with or continue to interact with the clerk.

- 8) The adult will make a small purchase and meet the youth in the car. The youth will report the above information immediately after each transaction for the adult to record on the data sheet.
- 9) The item bought by youth will be kept in a bag labeled with the date and location of retailer and handed to adult volunteer.