



## OFFICE OF RACIAL EQUITY AND SOCIAL JUSTICE


Marc Elrich  
County Executive

Tiffany Ward  
Director and Chief Equity Officer

### MEMORANDUM

October 8, 2024

To: Jennifer Bryant, Director  
Office of Management and Budget

From: Tiffany Ward, Director  
Office of Racial Equity and Social Justice 

Re: Racial Equity Impact Assessment (REIA) Supplemental Appropriation (SA) #25-17  
Juul Settlement Fund for Vape Detection and Prevention

- I. **FINDING:** The Office of Racial Equity and Social Justice (ORES) finds that Supplemental Appropriation #25-17 Juul Settlement Fund for Vape Detection and Prevention has the potential to advance racial equity and social justice in Montgomery County, but the full extent of its impact will depend on how vape detectors fit into MCPS' overall vape response strategy and the degree to which that strategy recognizes and responds to health disparities and inequities that create barriers to vape prevention and cessation.
- II. **BACKGROUND:** The purpose of Supplemental Appropriation #25-17 Juul Settlement Fund for Vape Detection and Prevention is to allocate \$2,000,000 in Juul settlement funds to Montgomery County Public Schools (MCPS) for funding vape detection and prevention in all County high schools. This funding stems from a settlement between MCPS and Juul Labs, Inc. According to an August 20, 2024, Memorandum from Thomas Taylor, Superintendent of Schools to the Members of the Board of Education, the funding will be used to purchase and install a vape detection system in all county high schools in areas such as restrooms "to mitigate the health risks associated with vaping and ensure that all students feel safe in their school environments".

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Among high school and middle school students in the US, e-cigarettes were the most used tobacco product in 2023<sup>1</sup>. The MCPS E-Cigarettes website outlines health and safety risks associated with e-cigarettes and Juuls in particular<sup>2</sup>. According to the Maryland Department of Health, In Montgomery County, the percentage of students who ever used an electronic vapor product ranged between 13.1% (in 9<sup>th</sup> grade) to 26.9% (12<sup>th</sup> grade)<sup>3</sup>; the overall percentage of students who currently use a vapor product is 10%<sup>4</sup>. While not specific to e-cigarettes, evidence suggests that tobacco companies have used marketing tactics that specifically target youth of certain groups, including Black, American Indian, Alaska Native, LGBTQ+, and youth with lower socioeconomic status<sup>5</sup>.

In 2019 health officials in Montgomery County recommended increased education and awareness regarding the harms<sup>6</sup> of vaping to stem the increase in the popularity and use of vaping devices among adolescents and young adults<sup>7</sup>. Since then, and as recently as the Board of Education FY25 proposed operating budget, MCPS has taken steps to combat the use and abuse of vaping devices. The BOE proposed operating budget included \$1,185,689 in revenue from a legal settlement with Juul Labs. The proposed use of this funding was:

*“to support education and prevention on the use of e-cigarettes and increased security in middle and high schools. This includes \$100,000 for educational efforts towards prevention, \$250,000 for recurring and maintenance costs of vape detectors, \$445,652 for the hiring of seven security assistants including four at high schools, three at middle schools, and \$390,037 for temporary part-time security costs.”<sup>8</sup>*

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<sup>1</sup> U.S. Centers for Disease Control and Prevention. “Tobacco products use among U.S. Middle and High School Students – National Youth Tobaccos Survey, 2023”. Available at: <https://www.cdc.gov/tobacco/data-statistics/mmwr/2023-mm7244a1.html#:~:text=Current%20use%2C%20all%20tobacco%20products%2C%202023&text=school%20students%20combined%3A-,E%2Dcigarettes%E2%80%94for%20the%2010th%20year%E2%80%94were%20the%20most,E%2Dcigarettes%2C%207.7%25>

<sup>2</sup> <https://www.montgomeryschoolsmd.org/departments/publicinfo/vaping/>

<sup>3</sup> Montgomery County\_HS\_Summary Report\_Final. QN35. Available for download here:

<https://health.maryland.gov/phpa/ccdpc/Reports/Pages/YRBS-2022-2023.aspx>

<sup>4</sup> Montgomery County\_HS\_Summary Report\_Final. QN36. Available for download here:

<https://health.maryland.gov/phpa/ccdpc/Reports/Pages/YRBS-2022-2023.aspx>

<sup>5</sup> [https://www.cdc.gov/tobacco/basic\\_information/e-cigarettes/pdfs/Supporting-Schools-to-Quit-Tobacco-Use-as-an-Alternative-to-Suspension.pdf](https://www.cdc.gov/tobacco/basic_information/e-cigarettes/pdfs/Supporting-Schools-to-Quit-Tobacco-Use-as-an-Alternative-to-Suspension.pdf)

<sup>6</sup> [https://www.cdc.gov/tobacco/e-cigarettes/?CDC\\_AAref\\_Val=https://www.cdc.gov/tobacco/basic\\_information/e-cigarettes/?s\\_cid=osh-e-cig-main-001](https://www.cdc.gov/tobacco/e-cigarettes/?CDC_AAref_Val=https://www.cdc.gov/tobacco/basic_information/e-cigarettes/?s_cid=osh-e-cig-main-001)

<sup>7</sup> [https://www2.montgomerycountymd.gov/mcgportalapps/Press\\_Detail.aspx?Item\\_ID=23009](https://www2.montgomerycountymd.gov/mcgportalapps/Press_Detail.aspx?Item_ID=23009)

<sup>8</sup> <https://www.montgomeryschoolsmd.org/siteassets/district/departments/budget/fy2025/updated-boe-tentatively-adopted.pdf>

The revenue is accounted for in the adopted FY25 operating budget<sup>9</sup>, but details about proposed expenses were not readily available at the time of this analysis. Therefore, it is unclear what activities have been undertaken to stem the use of vaping in schools and what the impact of those activities has been to date.

In August 2024 news<sup>10</sup> reports describe the planned use of \$2m in funds from a legal settlement with Juul “to install devices that detect vape smoke and then either set off an alarm or send a message to a school administrator so they can investigate the matter”<sup>11</sup>. The articles described a pilot program to test different detectors at Kennedy, Northwood, Paint Branch, Quince Orchard, Richard Montgomery, and Walt Whitman and highlighted some learnings from these pilots. Some reports raised questions about the performance of the pilot program and concerns about vape detectors being falsely triggered by things like perfume and a need for additional staff to be able to respond to detection. It’s unclear what preventative effect the detectors had during the pilot. Additional information about the pilot program and its outcomes was not readily available at the time of this analysis.

According to the MCPS Student Code of Conduct<sup>12</sup>, “using or possessing tobacco in any form (including Juul devices, vapes, e-cigarettes, and edibles)” will be met with two possible types of intervention: Classroom and Teacher-led Response (e.g., written apology, talk with school counselor, detention) and Teacher-led/referred and Administrative Supported Responses (e.g., community service, peer mediation, temporary removal from class). In-school and out-of-school suspension for tobacco-related incidences is not an allowable intervention according to the Student Code of Conduct. This practice is supported by the U.S. Department of Education as referenced in the Centers for Disease Control and Prevention guide: “Schools Supporting Students to Quit Tobacco Use as an Alternative to Suspension: Lessons from the Field”. The guide explains how suspension for students who violate the school’s tobacco-free policy is unlikely to help them quit tobacco use and could alter their academic and future goals. Promising alternatives include curricula like “Health Future, an Alternative-to-Suspension Program” developed by Stanford Medicine’s REACH Lab<sup>13</sup>, which is targeted towards students who have been caught using e-cigarettes. In addition, given racial disparities in suspension rates, such a punishment could disproportionately harm

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<sup>9</sup> [https://www.montgomeryschoolsmd.org/siteassets/district/departments/budget/fy2025/updated-operatingbudget\\_runningset.pdf](https://www.montgomeryschoolsmd.org/siteassets/district/departments/budget/fy2025/updated-operatingbudget_runningset.pdf)

<sup>10</sup> <https://www.nbcwashington.com/news/local/mcps-plans-to-install-vape-detectors-in-high-school-bathrooms/3703025/?os=wtmb&ref=app> and <https://wtop.com/montgomery-county/2024/08/montgomery-co-schools-to-spend-2m-for-vape-detectors/>

<sup>11</sup> <https://www.nbcwashington.com/news/local/mcps-plans-to-install-vape-detectors-in-high-school-bathrooms/3703025/?os=wtmb&ref=app>

<sup>12</sup> [https://www.montgomeryschoolsmd.org/contentassets/2bcd99470c9f44f891cc5be276c25d19/student\\_code-of-conduct\\_web.pdf](https://www.montgomeryschoolsmd.org/contentassets/2bcd99470c9f44f891cc5be276c25d19/student_code-of-conduct_web.pdf)

<sup>13</sup> <https://med.stanford.edu/tobaccopreventiontoolkit/healthy-futures-nicotine.html>

students of color<sup>14</sup>Data about vaping or tobacco-related citations and interventions in Montgomery County high schools was not available at the time of this analysis.

III. **ANALYSIS:** Research about how other jurisdictions is leveraging Juul settlement funds uncovered a wide range of interventions<sup>15</sup>: education and prevention programs; treatment and cessation programs; supportive school disciplinary practices; regulation; youth engagement; parent and community outreach; research; data collection; tobacco product waste disposal. The Public Health Law Center (Center) suggests that implementing vape detectors may not be the most effective or beneficial approach to curbing teenage vaping. The Center explains the ways in which vape detectors “may exacerbate existing health disparities by disproportionately targeting and penalizing certain racial or ethnic groups”<sup>16</sup>. Recognition of this is especially important, given the below demographic characteristics of Montgomery County high school students who reported “currently using an electronic vape product on at least one day in the 30 days prior” to the Youth Risk Behavior Survey/Youth Tobacco Survey (YRBS/YTS):

Student Race/Ethnicity	Weighted <sup>17</sup> Percentage
Asian*	3.6%
Black*	7.5%
Hispanic/Latino	13.6%
Native American*	--
White*	12.5%
Native Hawaiian/ Other Pacific Islander*	--
Multiple Races*	14.3%

<sup>14</sup> [https://www.cdc.gov/tobacco/basic\\_information/e-cigarettes/pdfs/Supporting-Schools-to-Quit-Tobacco-Use-as-an-Alternative-to-Suspension.pdf](https://www.cdc.gov/tobacco/basic_information/e-cigarettes/pdfs/Supporting-Schools-to-Quit-Tobacco-Use-as-an-Alternative-to-Suspension.pdf) and [https://truthinitiative.org/sites/default/files/media/files/2021/11/Discipline%20Is%20Not%20the%20Answer%20Policy%20Statement\\_FINAL.pdf#:~:text=Truth%20Initiative%20recommends%20that%20students%20who%20violate%20tobacco,young%20people%20make%20healthy%20decisions%20around%20tobacco%20use.](https://truthinitiative.org/sites/default/files/media/files/2021/11/Discipline%20Is%20Not%20the%20Answer%20Policy%20Statement_FINAL.pdf#:~:text=Truth%20Initiative%20recommends%20that%20students%20who%20violate%20tobacco,young%20people%20make%20healthy%20decisions%20around%20tobacco%20use.)

<sup>15</sup> <https://www.astho.org/communications/blog/how-states-can-leverage-juul-settlement-funds-to-promote-public-health/> and <https://www.publichealthlawcenter.org/commentary/230727/7/27/23-how-spend-juul-settlement-funds-champion-our-children-target-commercial>

<sup>16</sup> <https://www.publichealthlawcenter.org/commentary/230727/7/27/23-how-spend-juul-settlement-funds-champion-our-children-target-commercial>

<sup>17</sup> A weight is applied to each student record to adjust for student nonresponse and the distribution of students by grade, sex, and race/ethnicity in each jurisdiction. Therefore, weighted estimates are representative of all students in grades 9–12 in each jurisdiction. Please see “Sampling, Weighting, and Response Rates” in Methodology of the Youth Risk Behavior Surveillance System — 2013. Available: <https://test-health.maryland.gov/phpa/ohpetup/Documents/YRBS%20Methodology%20MMWR.pdf>

\*= non-Hispanic/Latino

--= Fewer than 30 students in this group or less than 5 students responding affirmatively

Source: Author recreated summary data table for QN36: Percentage of students who currently used an electronic vapor product (including e-cigarettes, vapes, vape pens, e-cigars, e-hookahs, hookah pens, and mods [such as JUUL, SMOK, Suorin, Vuse, and blu], on at least 1 day during the 30 days before the survey)

The data suggests that smaller percentages of Black and Asian students, compared to the overall percentage of high school students in Montgomery County (10%), use vape products. Whereas larger percentages of Hispanic/Latino, White, and Multiracial students use vape products, compared to the overall percentage of high school students. Further analysis shows there's a disparity in utilization by gender as well, with 12.4% of female students and 8.2% of male students reporting use of vape products<sup>18</sup>.

Understanding demographic differences in incidence can help in the design and delivery of targeted interventions that respond to the unique experiences of students who are most likely to use vape products. A full analysis of the survey trends is beyond the scope of this REIA, but understanding rates of low income, participation in special education, and participation in the Free and Reduced Meals Program could help highlight other inequities worth targeting.

The higher percentage of Hispanic/Latino students compared to the overall percentage of students highlights the harms of systemic health inequities. In “Addressing Tobacco Use in Hispanic or Latino Communities: Toolkit”, the American Lung Association, citing the CDC and The American Journal of Public Health, explains that “Hispanics or Latinos are still less likely than non-Hispanic whites to have access to healthcare, to receive advice to stop tobacco use, to have knowledge of existing smoking cessation resources, to participate in tobacco cessation programs or to utilize pharmacotherapy to stop smoking.”<sup>19</sup> This is also evident in local data, where Latinos are six times as likely as their White counterparts to not have health insurance<sup>20</sup>.

In terms of response, the Center emphasizes the benefits of a mix of approaches that seek to balance detection and prevention, “Approaches that prioritize education, prevention, and support, while building trusting relationships, are more likely to lead to positive outcomes and long-term behavior change than those of a punitive approach”<sup>21</sup> As settlement funding is programmed, it will be important to consider systemic health

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<sup>18</sup> Montgomery County HS Summary Report Final. QN36. Available for download here:

<https://health.maryland.gov/phpa/ccdpc/Reports/Pages/YRBS-2022-2023.aspx>

<sup>19</sup> [https://www.lung.org/getmedia/1063c716-425d-4684-8647-](https://www.lung.org/getmedia/1063c716-425d-4684-8647-14a37a72580a/Hispanic_Latino_Communities_Toolkit_ENG.pdf)

[14a37a72580a/Hispanic\\_Latino\\_Communities\\_Toolkit\\_ENG.pdf](https://www.lung.org/getmedia/1063c716-425d-4684-8647-14a37a72580a/Hispanic_Latino_Communities_Toolkit_ENG.pdf)

<sup>20</sup> “No Health Insurance” Racial Equity Profile Montgomery County, MD. Available at:

<https://www.montgomerycountymd.gov/ORE/Resources/Files/JUPITERRACIALEQUITYPROFILE.pdf>

<sup>21</sup> <https://www.publichealthlawcenter.org/commentary/230727/7/27/23-how-spend-juul-settlement-funds-champion-our-children-target-commercial>

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inequities and interventions that balance prevention and cessation with detection activities in schools.

cc: Thomas W. Taylor, Superintendent of Schools, Montgomery County Public Schools  
Tricia Swanson, Director, Strategic Partnerships, Office of the County Executive