

CSBA Sample Board Policy

Community Relations

BP 1330.1(a)

JOINT USE AGREEMENTS

Note: The following **optional** policy is for use by districts that elect to share school facilities and/or use community facilities for activities that benefit both students and the community, and may be revised as desired to reflect district practice.

In order to provide for more efficient use of public resources and increase access to needed services, the Governing Board may enter into joint use agreements with local governmental agencies, postsecondary institutions, and/or community organizations to make school grounds or facilities available for public use or to use community facilities for school programs. Such agreements shall be based on an assessment of student and community needs and may be designed to increase access to spaces for recreation and physical activity, library services, school health centers, preschool programs, child care centers, before- or after-school programs, or other programs that benefit students and the community.

(cf. 1020 - Youth Services)

(cf. 1330 - Use of Facilities)

(cf. 1400 - Relations Between Other Governmental Agencies and the Schools)

(cf. 5030 - Student Wellness)

(cf. 5141.6 - School Health Services)

(cf. 5148 - Child Care and Development)

(cf. 5148.2 - Before/After School Programs)

(cf. 5148.3 - Preschool/Early Childhood Education)

(cf. 6142.7 - Physical Education)

(cf. 6145.2 - Athletic Competition)

(cf. 6163.1 - Library Media Centers)

When it is determined that joint use of facilities is in the best interest of the district and community, the Superintendent or designee shall identify potential partner agencies or organizations. He/she shall also establish planning processes that involve those partners, appropriate district and school staff, and community members in establishing goals and priorities for joint use, determining locations where programs or facilities are most needed, and establishing protocols for ongoing communication and coordination among the partners.

(cf. 1220 - Citizen Advisory Committees)

The Superintendent or designee shall work with the partners to develop a written joint use agreement that delineates the terms and conditions for joint use and the responsibilities of all parties. The agreement shall be reviewed by legal counsel prior to approval by the Board. As appropriate, the agreement may address:

1. Priorities for use of the property
2. Hours that the property will be available for use by the partners or other parties

JOINT USE AGREEMENTS (continued)

3. Projected capital and operating costs
4. Resource allocations by each partner, including provision of materials and equipment
(cf. 3100 - Budget)
5. Responsibilities for management, scheduling, maintenance, on-site supervision as needed, and other operations
6. Access to facilities, including access to restroom facilities or provision of portable facilities as needed
7. Safety and security measures
(cf. 0450 - Comprehensive School Safety Plan)
(cf. 3515 - Campus Security)
(cf. 3516 - Emergencies and Disaster Preparedness Plan)
(cf. 5131.5 - Vandalism, Theft and Graffiti)
(cf. 5142 - Safety)
8. Liability, insurance, and risk management issues
(cf. 3320 - Claims and Actions Against the District)
(cf. 3530 - Risk Management/Insurance)
(cf. 9260 - Legal Protection)
9. Provision for regular inspection and notification of damage, as well as restitution and repair of property
(cf. 3515.4 - Recovery for Property Loss or Damage)
10. Duration of the agreement and the bases for cancelling or terminating the agreement before the expiration date
11. Process for resolving disputes regarding any aspect of the agreement

<p>Note: Education Code 38133 mandates that districts develop rules and regulations related to the management, direction, and control of school facilities and requires that these rules (1) aid, encourage, and assist groups desiring to use school facilities; (2) preserve order in school buildings and on school grounds and protect facilities; and (3) ensure that the use of school facilities or grounds is not inconsistent with their use for school purposes and does not interfere with the regular conduct of school work. See BP 1330 - Use of School Facilities for language implementing this mandate.</p>

Whenever district property will be used for joint use activities, such activities shall be scheduled during non-school hours and shall not interfere with the educational program.

JOINT USE AGREEMENTS (continued)

Note: The California Tort Claims Act (Government Code 814-825.6, 830-840.6) provides the district and its employees some protection against liability for injuries to individuals using school property, although some conditions or circumstances will result in the district being held liable in the event of an injury (e.g., if there is a dangerous condition on school property which the district failed to take any protective action against). Education Code 38134 requires the district to bear the cost of insuring and defending itself against any risk caused by the district's negligence in the ownership and maintenance of district property. Education Code 38134 also requires any organized group using the facilities to carry insurance and to defend itself in the event of any injuries arising from the group's negligence in the use of the facility.

CSBA's policy brief Maximizing Opportunities for Physical Activity Through Joint Use of Facilities recommends that districts minimize liability by adequately maintaining the property, assuring they have the proper insurance, requiring that organized groups who use the property maintain the proper insurance, and, when feasible, sharing or passing on the risk to the partner agency through an indemnity clause in the joint use agreement. The district should consult its legal counsel, insurance carrier, and/or risk manager regarding potential risks and liability prior to entering into a joint use agreement. **Atty: Do we need to say anything else here? This language comes from our policy brief.**

The district shall consult its legal counsel, insurance carrier, and/or risk manager to ensure that the district's insurance provides adequate protection for the proposed purposes. The district also may negotiate to have the partner agency or organization wholly or partially indemnify the district for any potential liability for injuries to individuals using district property. Whenever organized groups such as sports leagues use district property, the Superintendent or designee shall ensure that such groups maintain the proper insurance.

Note: Education Code 38134 authorizes the district to charge an amount not to exceed its direct costs for use of its facilities, provided that the Governing Board first adopts a policy specifying which activities will be charged the fee. See BP 1330 - Use of School Facilities for language implementing this mandate.

Organized groups using district property may be charged a fee not to exceed the district's direct costs in accordance with Education Code 38134 and BP 1330 - Use of School Facilities.

Note: Subject to available funds, districts may apply under the School Facility Program (Education Code 17077.40-17077.45) to fund one of two types of joint use projects: (1) Type I projects which are part of a qualifying new construction project that will either increase the size and/or create extra costs beyond that necessary for school use of the multipurpose room, gymnasium, child care facility, library, or teacher education facility; and (2) Type II projects which may be part of a modernization project or a stand-alone project to provide for a multipurpose room, gymnasium, child care facility, library, or teacher education facility at a school that does not have the type of facility needed or has an inadequate existing facility. Pursuant to Education Code 17077.44, the joint use agreement between the district and its partner must specify the contribution of each toward the 50 percent local matching contribution, with the partner providing at least 25 percent of the eligible project costs. However, if the district has passed a bond specifically for the joint use project, it may opt to pay up to the full 50 percent local share of eligible project costs.

JOINT USE AGREEMENTS (continued)

Planning for new construction or modernization of school facilities may consider designs that facilitate joint use and may direct the Superintendent or designee to explore state and local funding sources for joint use.

(cf. 7110 - Facilities Master Plan)

(cf. 7150 - Site Selection and Development)

(cf. 7210 - Facilities Financing)

Note: The following optional paragraph should be revised to reflect indicators that will be used to evaluate program effectiveness as agreed upon by the Board and Superintendent and/or program partners.

The Superintendent or designee shall provide regular reports to the Board, program partners, and the public regarding progress toward project goals, including, but not limited to, levels of participation in joint use programs held at school or community facilities, feedback from program participants, and any reports of damage to property or harm to individuals resulting from the joint use. As needed, the Superintendent or designee shall recommend amendments to the joint use agreement.

(cf. 0500 - Accountability)

Legal Reference:

JOINT USE AGREEMENTS (continued)

Legal Reference:

EDUCATION CODE

10900-10914.5 *Community recreation programs*

17051-17052 *Joint use*

17077.40-17077.45 *Eligibility for joint use funding*

17565-17592 *Board duties re property maintenance and control*

35200-35214 *Liabilities*

37220 *Use of facilities when school is closed*

38130-38138 *Civic Center Act, use of school property for public purposes*

BUSINESS AND PROFESSIONS CODE

25608 *Alcoholic beverage on school premises*

GOVERNMENT CODE

814-825.6 *Liability of public entities and employees*

830-840.6 *Liability; dangerous conditions on property*

989-991.2 *Local public entity insurance*

UNITED STATES CODE, TITLE 20

7905 *Equal access to public facilities*

COURT DECISIONS

Good News Club v. Milford Central School, (2001) 533 U.S. 98

Lamb's Chapel v. Center Moriches Union Free School District, (1993) 508 U.S. 384

Management Resources:

CSBA PUBLICATIONS

Maximizing Opportunities for Physical Activity Through Joint Use of Facilities, Policy Brief, rev. January 2010

CENTER FOR CITIES AND SCHOOLS AND PUBLIC HEALTH LAW AND POLICY JOINT PUBLICATIONS

Joint Use School Partnerships in California: Strategies to Enhance Schools and Communities, 2008

CITIES COUNTIES SCHOOLS PARTNERSHIP PUBLICATIONS

Building Healthy Communities: A School Leader's Guide to Collaboration and Community Engagement, 2009

NATIONAL POLICY AND LEGAL ANALYSIS NETWORK PUBLICATIONS

Liability for Use of School Property After Hours: An Overview of California Law, July 2009

Checklist for Developing Joint Use Agreements, March 2009

OFFICE OF PUBLIC SCHOOL CONSTRUCTION PUBLICATIONS

School Facility Program Handbook: A Guide to Assist with Applying for and Obtaining Grant Funds, May 2008

WEB SITES

CSBA: <http://www.csba.org>

California Project LEAN (Leaders Encouraging Activity and Nutrition):

<http://www.californiaprojectlean.org>

Center for Cities and Schools: <http://citiesandschools.berkeley.edu>

National Policy and Legal Analysis Network: <http://www.nplanonline.org>

Office of Public School Construction: <http://www.opsc.dgs.ca.gov>

Public Health Law and Policy: <http://www.phlpnet.org>