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HOW TO USE THE LAW TO PROMOTE COMMUNITY RECREATIONAL USE OF SCHOOL PROPERTY AFTER-HOURS



American
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The Foundation for The Gator Nation

The legal information and assistance provided in this webinar does not constitute legal advice or legal representation.

How to Use the Law to Promote Community Recreational Use of School Property After-Hours

Objectives

- Learn about how to use existing research to promote policies allowing community access of school property.
- Discuss the common barriers and solutions to community access to school property.
- Identify potential solutions to legal barriers.

SHARED USE OF SCHOOL RECREATIONAL FACILITIES

John O. Spengler, JD, PhD

University of Florida



The Foundation for The Gator Nation

Introduction

- **Policy and Built Environment Research**
 - My experience:
 - Research on joint and shared use of school and park recreational facilities
 - Review of legislation relevant to shared use
 - Inform American Heart Association efforts on shared use



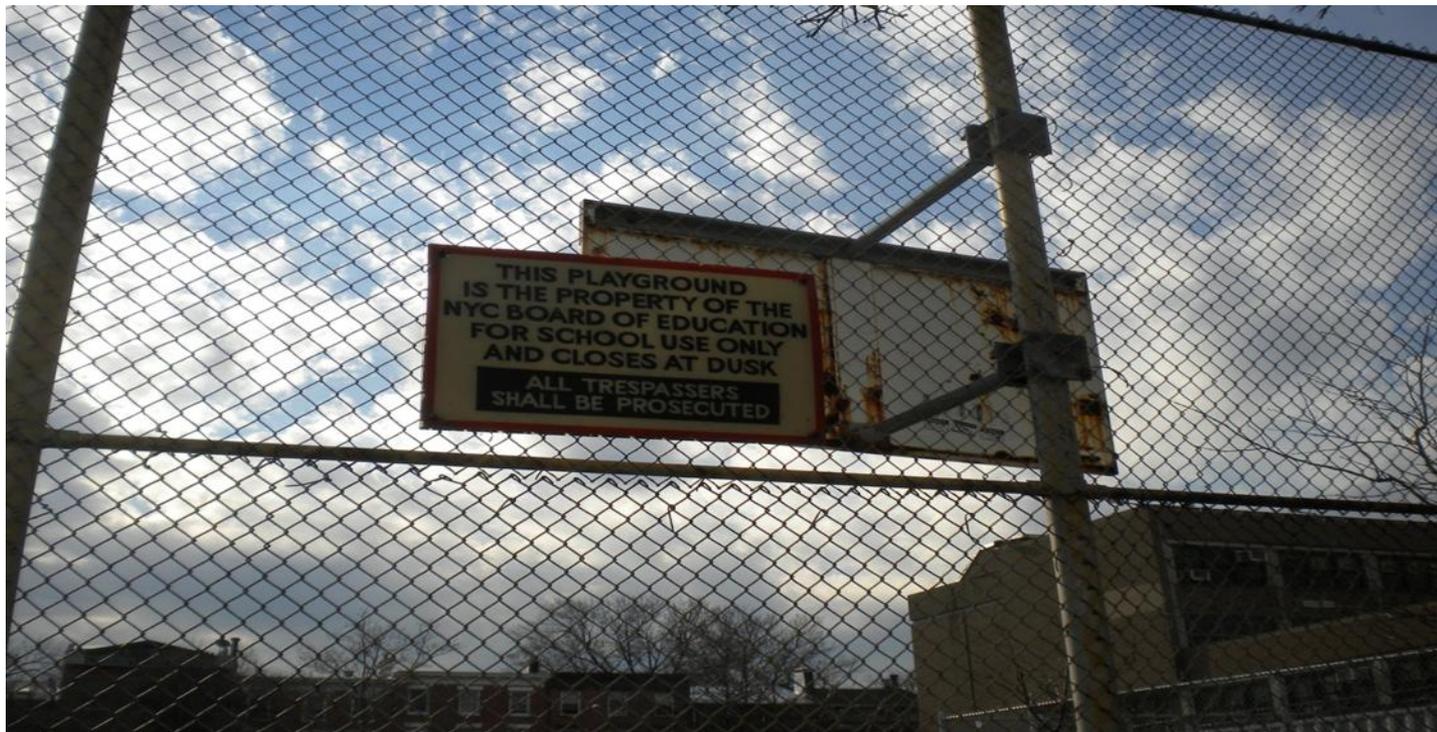
Importance of Access

- **Goal: Increase Access and Opportunities for Physical Activity**
 - Authoritative groups recommend access, and joint use of school facilities
 - IOM, AAP, White House Task Force, Healthy People 2020...
 - Relationship Building



Importance of Access

- Many communities, especially those with populations at high risk for obesity, lack recreational facilities



Importance of Access

- Children who have access to existing and renovated school recreational facilities outside of regular school hours are more likely to be active.

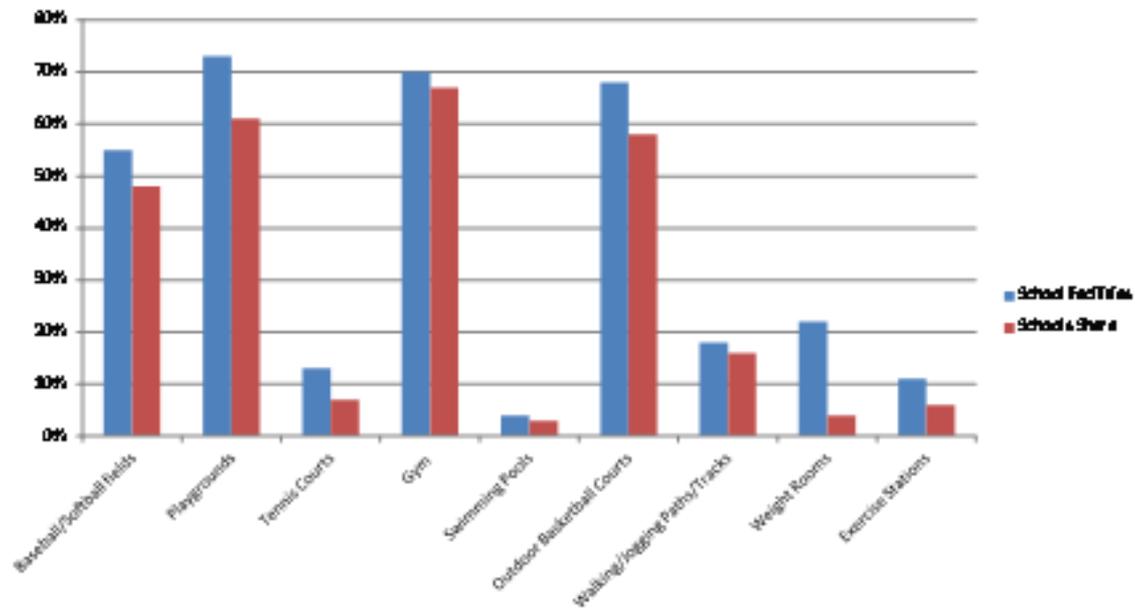


Types of Shared Use

- *Community access* to schools after hours for informal or shared use
- *Shared use* by parks, schools and community groups
 - Schools or Parks share facilities for games or practices with community sports leagues or faith-based groups.

Types of Shared Use

School Facilities, and Facilities Shared in Underserved Communities



Evidence on Progress

- Progress toward opening school facilities for recreational use outside of school hours is slow and some evidence suggests that lower-income communities are less likely than higher-income communities to offer shared use of school facilities.
 - Only 28.8 percent of the Nation's public and private schools provided access to their physical activity spaces and facilities for all persons outside of normal school hours in 2006.
 - Healthy People 2020, SHPPS
 - National data indicate a lack of progress from 2000 to 2006 toward increasing the proportion of the nation's public and private schools that provide access to their physical activity facilities for all persons outside of normal school hours.
 - Evenson, et al

Evidence on Opportunities and Motivators

- **Motivators to Shared-Use**
 - Among principals in low-income and minority communities (national study), the primary motivators for shared use were:
 - Building relationships with families,
 - Community collaboration, and
 - Providing a clean, safe environment for people in the community to be physically active.

Evidence on Challenges and Barriers

- Barriers to Shared Use
- Surveys of school administrators in lower-income communities or communities of color cite issues such as liability, staffing, maintenance and cost as barriers to opening schools for recreational use outside of school hours.



Evidence on Challenges and Barriers

- **Liability**
- A national survey of school principals in lower-income and minority communities found that 83 percent were “somewhat to very concerned” about liability if someone was injured while participating in recreational activities on school property outside of regular school hours. Among the 31 percent of respondents who reported that their facilities were not open for community use, 91 percent were “somewhat to very concerned” about liability.
 - **Eighty-three percent** believed that **stronger legislation** was needed to better protect schools from lawsuits.
 - Among those who did not open their facilities for community use, **86%** believed that **stronger legislation** was needed to better protect schools from liability.
 - Among those that had a liability claim brought against them within the past five years resulting from a person injured while engaging in a recreational activity on school property outside of regular school hours, **94%** believed that **stronger legislation** was needed to better protect schools from liability.
 - Spengler et al

Addressing the Challenges

- **Policy Initiatives**
- **Local Policy**
 - Joint use agreements
- **State Policy**
 - Policy guidance and state legislation

STATE AND LOCAL ADVOCACY AT THE AMERICAN HEART ASSOCIATION

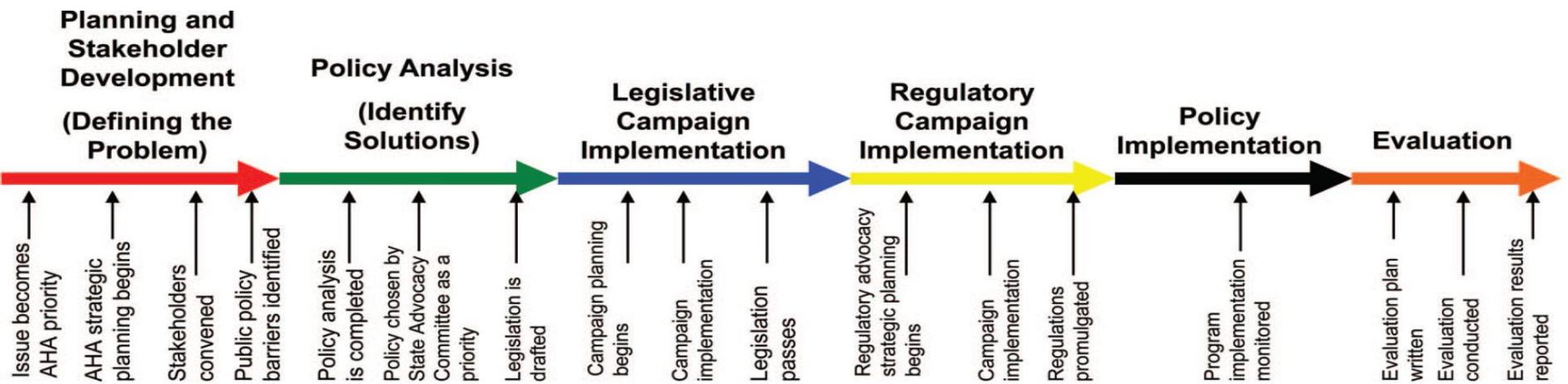
Based in Research

Driven by Volunteers

Context Set Nationally

Priorities Set Locally

American Heart Association

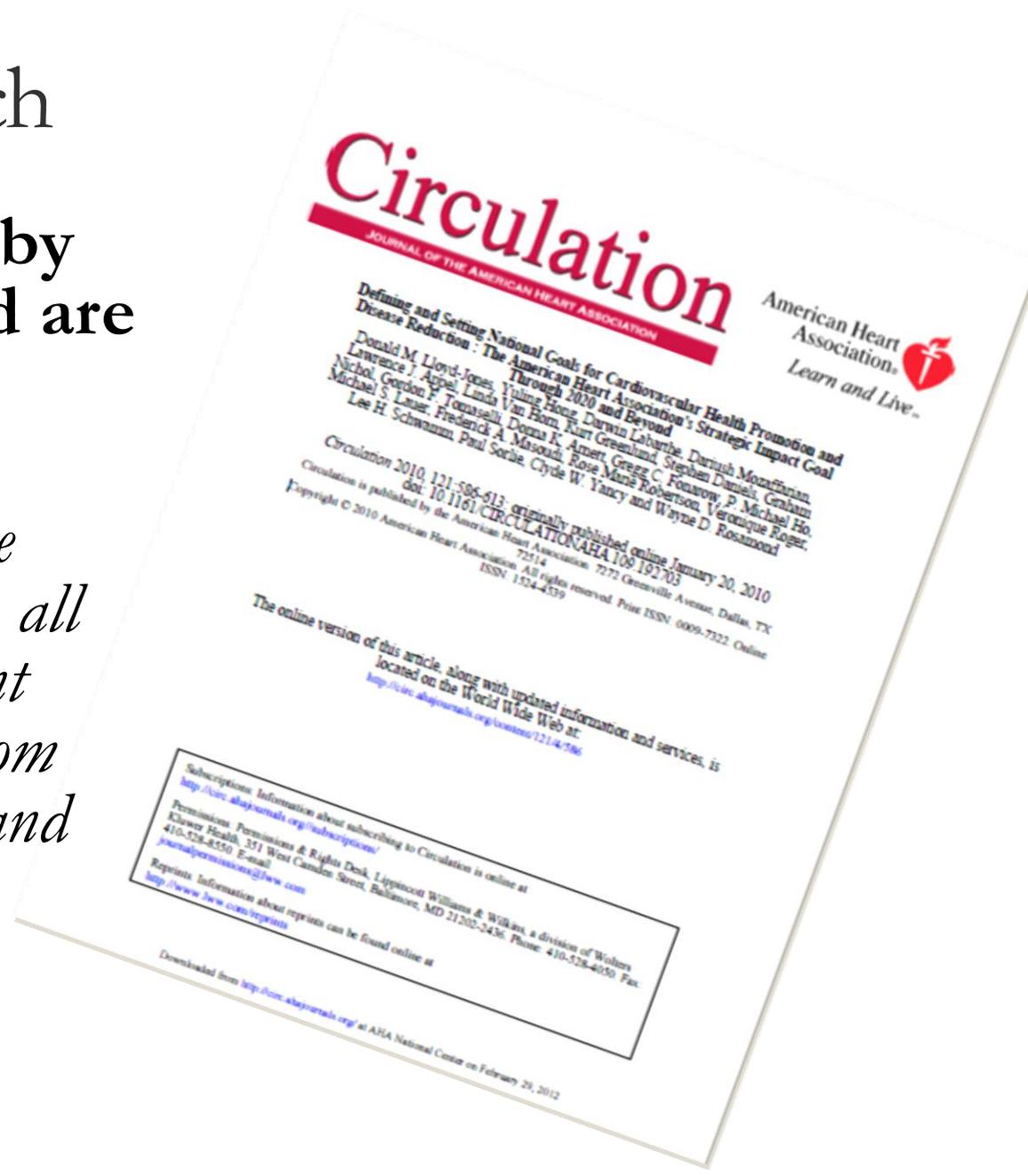


<ul style="list-style-type: none"> • An issue is identified as an Association-wide priority where policy and systems change is needed to advance the priority. • Advocacy staff convene cross-functional internal teams to develop strategic plan to address policy. Stakeholders group of internal and external experts/partners may be convened as well for input and guidance. • Public policy opportunities and barriers are identified and legislative and regulatory options are explored. 	<ul style="list-style-type: none"> • Policy analysis is led by state advocacy staff and could include analysis of the following: <ul style="list-style-type: none"> • Current statutory and regulatory law. • Political and economic feasibility of solution. • Potential public policy solutions that could address the problem. • Policy solution chosen and identified as a state advocacy priority by State Advocacy Committee. • Decision is made to pursue legislative or regulatory route. • Decision is made on outcome measures for subsequent evaluation. 	<ul style="list-style-type: none"> • Either through this proactive process or in reaction to legislation that is introduced, state advocacy staff take the lead developing strategic campaign plans to advance public policy. • Utilizing a cross-functional team for both planning and implementation (internal and external partners as appropriate to the issue), legislation is shepherded and passed. • If enabling legislation, policy opportunities next turn to the regulatory realm. 	<ul style="list-style-type: none"> • If regulatory action is needed, state advocacy staff develop strategic regulatory campaign plans to advance our regulatory priorities. • Utilizing a cross-functional team for both planning and implementation, advocacy staff work closely with internal and external partners to monitor the regulatory advocacy process. • Advocacy staff take the lead on lobbying tactics as well as providing expert advice and guidance 	<ul style="list-style-type: none"> • Once legislation and/or regulation is passed, advocacy staff monitor and influence the development of the program so that it is aligned with AHA guidelines and policies. • Advocacy staff take the lead on development of evaluation plan related to agreed upon outcome measures. 	<ul style="list-style-type: none"> • Evaluation may be completed using internal or external resources and partners. • Outcomes are evaluated and reported.
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Based In Research

Even the goals set by our National Board are researched and published.

By 2020, to improve the cardiovascular health of all Americans by 20 percent while reducing deaths from cardiovascular diseases and stroke by 20 percent.



Value of Prevention

- Summary of the cost effectiveness and value of primary and primordial prevention
- Value and impact of policy and environment change and early clinical intervention on the public health, national security and productivity
- Data on improving health through population-based environmental and policy changes



Circulation American Heart Association
JOURNAL OF THE AMERICAN HEART ASSOCIATION Learn and Live.

Value of Primordial and Primary Prevention for Cardiovascular Disease: A Policy Statement From the American Heart Association
William S. Weintraub, Stephen R. Daniels, Lori E. Burke, Barry A. Franklin, David C. Goff Jr, Laura L. Hayman, Donald Lloyd-Jones, Ding K. Padner, Eduardo J. Sanchez, Andrea Parsons Schman and Laurie P. Wilhelms

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The Value of Prevention

Cardiovascular disease is the leading killer of Americans and creates massive strains on our economy. Direct and indirect medical care costs for these diseases reached almost \$450 billion in 2010 and are projected to exceed \$1 trillion a year by 2030. However, research indicates prevention can also actually **save** money while saving lives.

- DIET NUTRITION**
If every American consumed only 1,000 milligrams of sodium daily, it would save an estimated \$6.2 billion in annual healthcare costs.
- PHYSICAL ACTIVITY**
Every \$1 invested in building blue and pedestrian trails brings nearly \$3 in medical cost savings.
- TOBACCO PREVENTION**
Comprehensive smoke-free air laws in public buildings bring an estimated \$40 billion in annual savings for direct and indirect healthcare costs.
- BLOOD PRESSURE**
On average, a person who manages blood pressure with medication saves about \$67,000 a year. Researchers argue it's time by measuring real costs and quality of life.
- OBESITY PREVENTION**
One-year community-based programs have shown reductions in poor eating and physical activity habits and weight. For every dollar invested in such programs, \$1.17 is saved in medical costs.

Source: American Heart Association Policy Statement
The Value of Prevention for Cardiovascular Disease
Circulation: December 13, 2011

Circulation 2011, 124:967-990; originally published online July 25, 2011
doi: 10.1161/CIR.0b013e3182285a81

Driven by Volunteers

Agenda setting starts in March

- State and Local AHA staff and Volunteer input.
- Senior National Staff Review

Submission to the policy setting committee of the National Board of Directors for consideration at the end of June.

National Context

- Two Dozen National Priority Areas
- Roughly half are obesity focused
- Both Affiliate and National Leadership briefed monthly on progress.
- Accountability Matters



FACTS

Joint Use Agreements

Sharing School Recreational Facilities with the Community

OVERVIEW

The U.S. is in the grips of a full-blown obesity epidemic. The prevalence of those who are obese has risen to 34%.¹ In 2009, adult obesity rates rose in 28 states, and in more than two-thirds of states, obesity rates exceed 25 percent of all adults.² In light of these dire statistics, it is critical to find ways to increase physical activity opportunities in the places where people live, work, learn and play. However, nearly 50 percent of U.S. adults and 65 percent of adolescents do not currently get the recommended amount of physical activity each day.^{3,4}

Land use and facility planning by local governments and school districts have become separated in many communities and this lack of coordination has contributed to larger, more distant schools that have less connection with the people they serve.⁵ School facilities, especially those that are centered in the community, can be an excellent resource for recreation and exercise where there is limited availability of private options and too expensive. The most innovative districts are maximizing joint use of school facilities to address the educational and health needs of students and the community's need for recreational activity spaces.⁶

JOINT USE AGREEMENTS

Schools can offer a variety of safe, clean facilities, including running tracks, pools, gymnasiums, fitness rooms, and playgrounds. Unfortunately, districts often close their property to the public after school hours due to concerns around liability, security, maintenance, and other costs.

The reality is that if school districts maintain their property, carry insurance, require community groups to have insurance and enter into formal joint use agreements, they can minimize their

liability risks.⁷ Public Health Law and Policy has created an excellent toolkit that provides model agreements, case studies, funding options, and other information for implementing joint use agreements. (Available online at: http://www.phlplaw.org/assets/parentingproducts/joint_use_toolkit). Joint use agreements allow school districts, local governments, and community-based organizations to overcome common district concerns and share costs and responsibilities of opening school property to the public after school hours.



THE HEALTH BENEFITS

In order for adults and children to get the exercise they need to be healthy, they need places to be active. Research has shown that people who have parks or recreational facilities nearby exercise 30 percent more than those who do not have easy access.⁸ Unfortunately, low-income communities, especially in predominantly Latino or African-American neighborhoods often have fewer resources to support active lifestyles and places to play and exercise.⁹

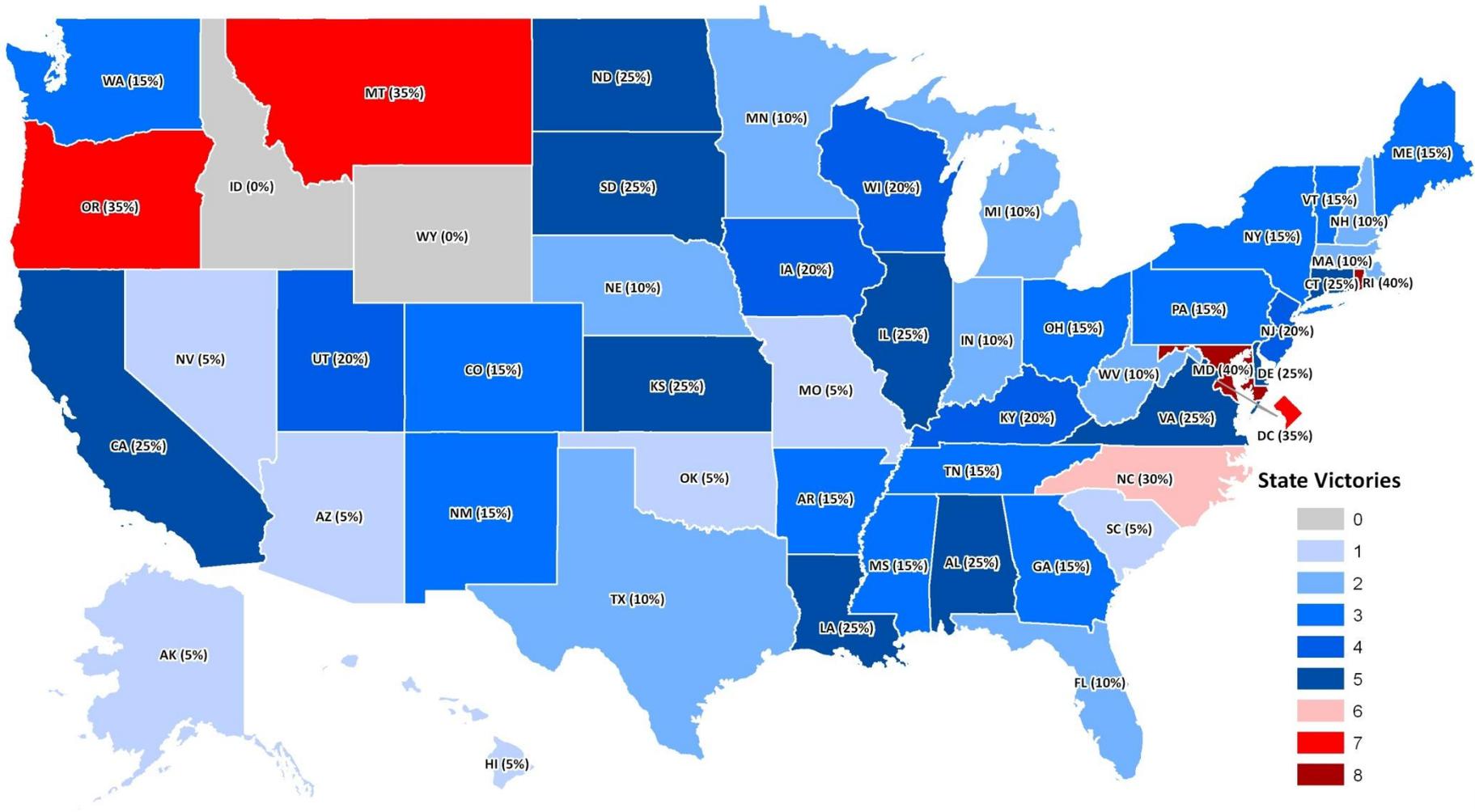
SOME SUCCESS STORIES

Schools can create access by opening existing facilities during non-school hours, integrating the opportunity for community use when planning new

American Heart Association | Advocacy Department | 1100 Connecticut Ave. NW | Suite 300 | Washington, DC 20036
Phone: (202) 785-7000 | Fax: (202) 785-7950 | www.heart.org/a2a00001

State Policy Report Cards

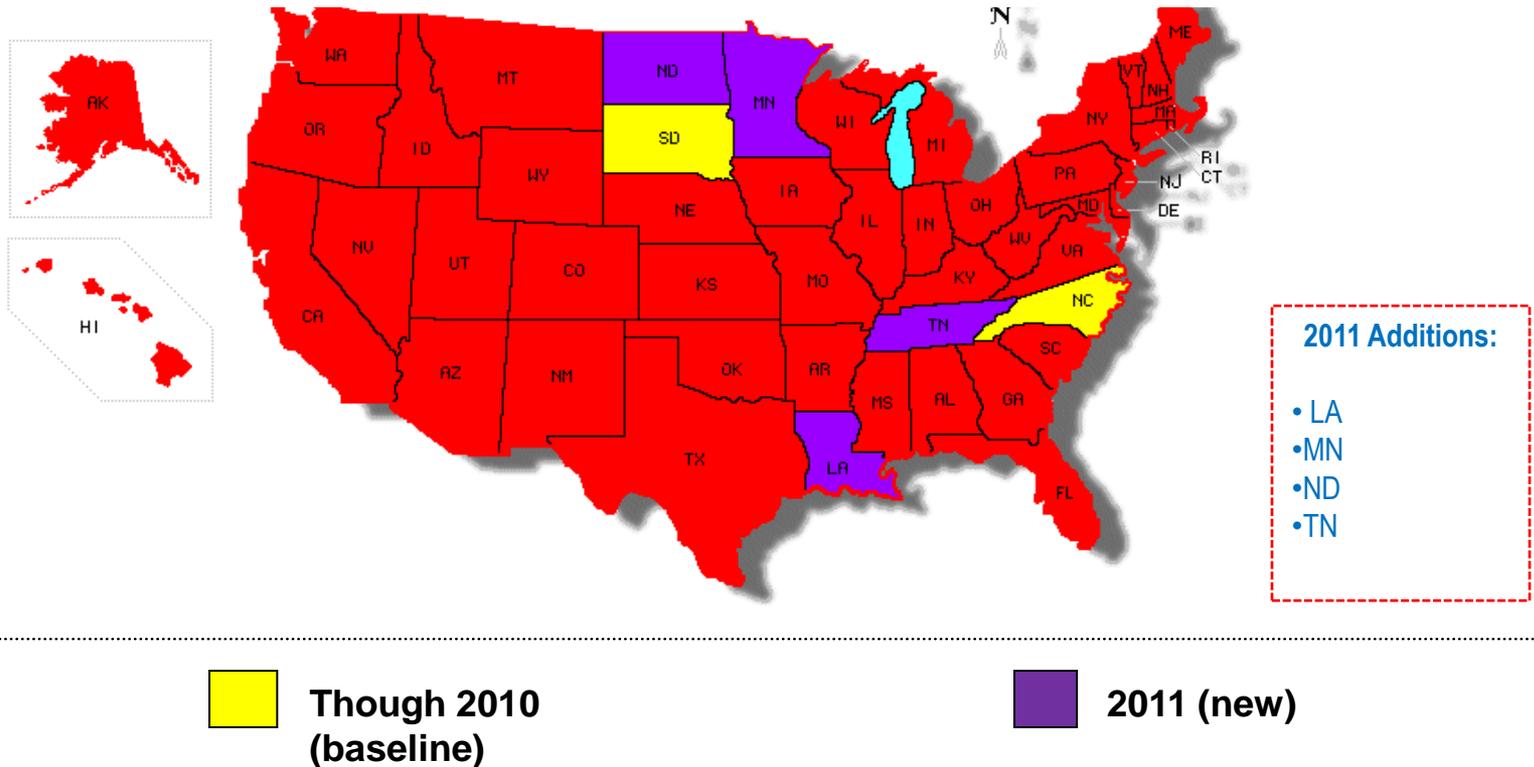
Last updated 7/7/11



Joint Use – Liability Protection (6/44)

2014 Goal: 15 States

Increase the number of states that clarify liability rules the use of school owned recreational facilities by other government and non-governmental entities for the purpose of physical activity by imposing liability for property damage and injury on the use as well as providing that the school not be held liable.



Prioritization Done Locally

Internally:

July and August: Staff complete an assessment of policy change conditions in their state. Includes key volunteers in the state as well as coalition partners.

August September: Staff finalize areas of focus for upcoming sessions and write detailed campaign plans for top priority issues.

September October: Both Affiliate and National leadership review campaign plans

Why Does Liability Matter?



Elements of Liability

✓Duty of care;

✓Failed in Duty; *and*

✓That failure caused harm that could have been reasonably expected to occur



Defenses to Liability: Immunity





ELIMINATING BARRIERS FOR COMMUNITY RECREATIONAL USE OF SCHOOL PROPERTY: POLICY GUIDANCE ON LIABILITY AND SHARED USE

Obesity rates are on the rise, in part because of the public's lack of access to safe and appropriate places to be physically active. One key strategy for promoting increased physical activity is to open school property for recreational use by the community during non school hours. Research indicates that one of the main obstacles to this strategy is a fear among school administrators that if school property is opened to the community for recreation, schools will face additional legal liability for injuries that result. Whether real or misplaced, these concerns can stymie efforts to encourage physical activity.

Considerations Prior to Initiating Policy Change

The starting point in addressing the fears about recreational use of school property during non school hours is to understand the legal standards involved. State laws relating to school liability and community use of school property are complex, and vary from one state to another. In many states, careful analysis of applicable state laws and judicial decisions will show that liability fears are misplaced. Still, if a state's liability standards are not clearly stated in the law, and must instead be deduced by analyzing multiple statutes and legal decisions, the absence of an explicit and straightforward liability standard may itself block progress. In these instances, simply amending state law to clearly describe the existing liability protections can allay administrators' fears.

In other states, the risk of liability may truly be excessive, compared to the law's treatment of private landowners or the treatment of comparable public activities. For example, every state already creates legal protections for private landowners who open their properties for recreational use by the public, whether for hunting, fishing, boating, swimming, hiking or other outdoor activities. These laws limit the liability of private landowners in order to encourage them to open their property for public recreation. Similarly, every state has adopted some form of "governmental immunity", "sovereign immunity" or "state tort claims" law, limiting public liability for certain activities. Where liability concerns threaten activities essential to the public interest, it is not uncommon for laws to create liability protections that balance the need to protect injured victims against the need to encourage specific activities that benefit society as a whole. Thus, laws may create specific liability protections to encourage "Good Samaritans" to come to the aid of accident victims, or to encourage local governments to clean up contaminated industrial sites, or to encourage drug manufacturers to produce vaccines. In the same way, it may be appropriate in some states to modify the law to provide liability protections for the schools to promote public health, while still encouraging safe places for the public to be active.

Policy Guidance on Liability and Shared Use

- Findings of Fact
- Statement of Purpose
- Definitions
- Liability Provisions



Findings of Fact

Whereas, evidence to suggest that children who are physically active and fit are likely to have stronger Academic performance.

Active Living Research, Robert Wood Johnson Foundation, *Active Education: Physical Education, Physical Activity and Academic Performance*, 1-8 (2009).
http://www.activelivingresearch.org/files/Active_Ed_Summer2009.pdf

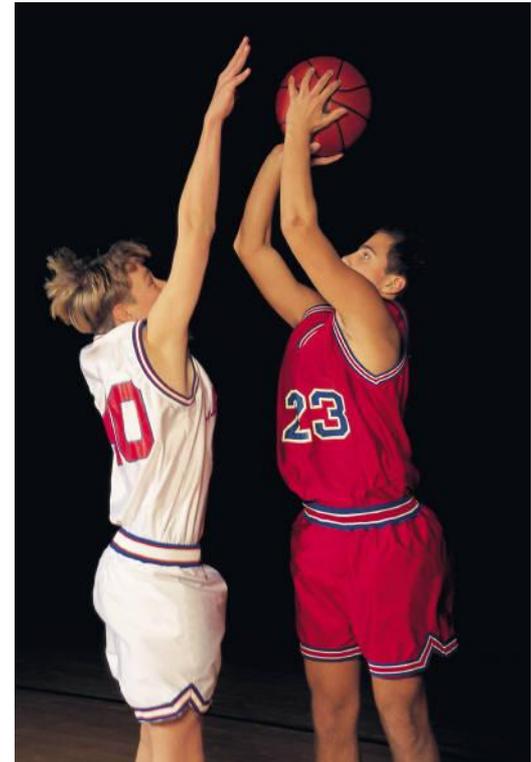
Statement of Purpose

- *The purpose of this legislation is to make school property available to community members outside of the school day for recreational activities to support active living, reduce obesity, reduce health care costs associated with obesity, increase community safety, maximize community resources, and promote community support for public schools.*



Key Definitions

- Non-school hours
- Public
- Recreation
- School
- School property
- Sport



Key Definitions

- *“Non-school hours” means any time prior to and after regular classroom instruction on a school day, and any time during weekends, holidays and vacation breaks.*
- *“Recreation” means any indoor or outdoor game or physical activity, either organized or unorganized, undertaken for exercise, relaxation, diversion, sport, or pleasure.*
- *“Sport” means an activity requiring physical exertion and skill, and which by its nature organization is competitive, includes a set of rules and generally accepted as being a sport.*

Liability Provisions

Except as provided in this subdivision, a school district [and school personnel] [is/ are] not liable for any loss or injury arising from the use of indoor or outdoor school property and facilities made available for public recreation or sport during non-school hours. Nothing in this subdivision limits the liability of a school district [and school personnel] for willful or malicious failure to guard or warn against a dangerous condition, use, structure or activity; or acts or omissions constituting gross, willful or wanton negligence.



Related Measures for Effective Implementation

These companion measures could include language that:

- encourages or requires school districts to allow community recreational use of school property during non-school hours;
- authorizes and supports implementation of shared use agreements;
- encourages or requires schools to work with community organizations to provide recreational opportunities for the community;
- develops a centralized structure for training about liability, model shared use agreements, lists of technical assistance resources, community partners, and funding;
- identifies statewide resources to promote community recreational use of school property; and
- requires school districts to have a school health council (otherwise known as a “school wellness committee”) to address community recreational use of school property.

Related Measures for Effective Implementation

[School districts/schools] are encouraged to allow the public to use of indoor and outdoor school property during non-school hours for recreational purposes or sport, provided the use does not interfere with a school function or purpose.



Related Measures for Effective Implementation

School districts are encouraged to negotiate mutually acceptable, fiscally responsible, legally binding shared use agreements with governmental and community agencies and organizations to keep school or district-owned facilities open for use by students, staff, and community members during non-school hours. “Shared Use Agreement” means a legal agreement that defines the rights and responsibilities of the school district and another organization or government agency for use of the school facilities for recreation or other purpose of importance to the community. Shared-use agreements should describe specific activities, times, and eligible participants and address supervision of minors; injury liability protections, funding sources, cost-sharing of utilities; and respective responsibilities for maintenance, cleanup, and security.

Related Measures for Effective Implementation:

*[School districts/ Schools]
[should/ shall] work with recreation
agencies and other community
organizations to coordinate and
enhance opportunities available to
students, staff and the public for
physical activity during non-school
hours.*



This language was adapted from “Fit, Healthy, and Ready to Learn: A School Health Policy Guide,” Chapter D: *Policies to Promote Physical Activity and Physical Education, Second Edition*, by James F. Bogden, MPH, Martine G. Brizius, MCRP, and Elizabeth M. Walker, MS, National Association of State Boards of Education, 2011, In press

Related Measures for Effective Implementation

The Department of Education, in consultation with the Department of Health, [should/ shall] develop a toolkit for school districts. This toolkit [should/ shall] include: 1) information outlining liability protections for both the school district and school personnel for injuries resulting from community recreational use of school property; 2) model Shared Use Agreement language; 3) a list of technical assistance resources available for the school districts to promote community recreational use of school property; 4) a list of potential community partners for Shared Use Agreements; and 5) a list of any grants or funding opportunities available to the school districts to promote community recreational use of school property. This toolkit [should/ shall] be posted on a state website and [should/ shall] be reviewed and updated on a regular basis. The Department of Education, in consultation with the Department of Health, [should/ shall] provide online public access to school district policies or procedures that promote community recreational use of school property, in order to encourage information sharing among school districts. This information [should/ shall] be reviewed and updated regularly.

Related Measures for Effective Implementation

Every [school district/ school] [should/ shall] create and maintain a School Health Council, (also known as a School Wellness Committee), to improve the health of students, staff and the community. A School Health Council [should/ shall] include representatives of educators, administrators, parents, students, community members and other stakeholders, and [should/ shall] operate in accordance with procedures specified by the school district. School districts, in consultation with the School Health Council, [should/ shall] address community recreational use of school property.

Know the Legal Landscape

- Use of School Property by Public
- Shared Use Agreements
- Governmental Immunity
- Recreational User Statute
- Limits on Recovery
- Insurance Requirements
- Court cases
- Other statutes



Minnesota 466.03 Exceptions, Subd. 23.

Recreational use of school property and facilities.

- (a) Any claim for a loss or injury arising from the use of school property or a school facility made available for public recreational activity.
- (b) Nothing in this subdivision:
 - (1) limits the liability of a school district for conduct that would entitle a trespasser to damages against a private person; or
 - (2) reduces any existing duty owed by the school district.



2011 Nevada Laws Ch. 134 (A.B. 227)

...the board of trustees of a school district shall, upon request, grant the use of any athletic field at each elementary, middle or junior high school within the school district to a nonprofit organization which serves adults and children with disabilities or which provides programs for youth sports, including, without limitation, baseball, football, soccer or softball. ...



Utah Code Ann. § 53A-3-413 (West)

(1) As used in this section, “civic center” means a public school building or ground that is established and maintained as a limited public forum to district residents for supervised recreational activities and meetings.

(2) Except as provided in Subsection (3), all public school buildings and grounds shall be civic centers.

(3) Use of school property for civic center purposes may not interfere with a school function or purpose.

Okla. Stat. Ann. tit. 51, § 155 (West)

....

20. Participation in or practice for any interscholastic or other athletic contest sponsored or conducted by or on the property of the state or a political subdivision;

21. Participation in any activity approved by a local board of education and held within a building or on the grounds of the school district served by that local board of education before or after normal school hours or on weekends;

....

2012 Mississippi Senate Bill No. 2488

TITLE: School premises liability; provide for shared use and public access to school buildings.



2012 Mississippi Senate Bill No. 2488

SECTION 3. Provisions. (1) A school district may allow the public use of indoor or outdoor school property during nonschool hours for recreational purposes or sports. The school district will ensure that the use of school facilities does not interfere with their use for school purposes. (2) A school district or school personnel will not be liable for any claim from a loss or injury arising from the use of indoor or outdoor school property or facilities made available for public recreation or sports.

SECTION 4. Limitation on school premises liability. This chapter does not relieve a school district or school personnel of liability which would otherwise exist for “gross negligence or willful or wanton misconduct.”

Other Important Resources

Coming Soon!

**Fit, Healthy, and Ready to Learn: A School Health Policy Guide
Chapter D. Policies to Promote Physical Activity and Physical
Education, Second Edition**



NASBE
NATIONAL ASSOCIATION OF
STATE BOARDS OF EDUCATION



Model Policy:

BEFORE- AND AFTER-SCHOOL SPORTS AND ACTIVITIES

GOALS. To supplement the school-based physical activity and physical education program, students will be provided ample opportunities to participate in before- and after-school physical activity clubs, intramural sports programs, interscholastic athletics, and community-based recreation programs that help meet their needs for physical activity.

STUDENT CARE PROGRAMS. School-age care programs that serve students without a supervising adult at home before or after school or during breaks in the school calendar shall provide participating students daily, frequent opportunities for moderate-to-vigorous physical activity, unstructured play, and organized physical activities regardless of weather. Children should be permitted to play outdoors provided that the wind chill or temperature is above 15°F or the heat index or temperature is below 90°F. In cold weather, children should be dressed warmly and in layers. Air quality risk should be determined by the local authorities or smog alerts.⁸⁶ All such programs are required to meet the physical activity requirements of the *National AfterSchool (NAA) Association Standards for Quality School-Age Care*.

Other Important Resources

<http://citiesandschools.berkeley.edu/joint-use.html>

JOINT USE OF PUBLIC SCHOOLS: A Framework for a New Social Contract



**21st CENTURY
SCHOOL FUND** | IMPROVING URBAN PUBLIC
SCHOOL FACILITIES

**CENTER FOR
CITIES & SCHOOLS**
UNIVERSITY OF CALIFORNIA, BERKELEY

CENTER for CITIES & SCHOOLS

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Joint Use Schools Initiative: Partnerships and Environments for Student Success

We provide policy implementation resources for state and local leaders to support effective joint use school partnerships.

There has been a growing conversation and demand for joint use of schools as a way to expand services for children and families in convenient locations, increase opportunities for physical activity and healthy living by expanding use of school recreational spaces, leverage capital investments, and more. Successful implementation, however, takes innovative policy making and planning because more intensive sharing of public educational spaces is a complex endeavor.

CC&S developed a set of tools for implementing and sustaining joint use and joint development of public school facilities. In partnership with the 21st Century School Fund.

Joint use tools, resources, and support are a core component of CC&S's PLUS Leadership Initiative, a multi-year initiative designed to prepare current and future educational, community, and civic leaders in the Bay Area region to develop collaborative, mutually beneficial policies and practices, and facilitate comprehensive systems-change.

School Facilities Joint Use Cost Calculator

21st Century School Fund & Center for Cities & Schools

One obstacle to sharing public school facilities is recovering the cost of joint use. One reason school districts say they do not recover their costs for joint use is they are not sure what to charge. But how do you know what to charge, if you don't know what it costs to own and operate the school buildings?

This joint use cost calculator will help:

- 1) Identify the elements of school district facility related costs
- 2) Calculate full cost of ownership on a per square foot and per hour basis
- 3) Determine policy decisions school districts need to make about which users to subsidize
- 4) Create fee structure options for various non-school users, based on the real cost of ownership

The calculator was piloted in the Bay Area to assist with decision-making about maximizing the use of public educational assets for school and community benefit. It is in BETA form and we are actively soliciting feedback for improvement.

[Download Calculator Tool \(.xls\)](#)

Partnerships for Joint Use: Expanding the Use of Public School Infrastructure to Benefit Students and Communities

Jeffrey M. Vincent

Funded by the Council of Educational Facility Planners International, this study categorizes the types of joint use used by school districts utilize in California. We discern the challenges and lessons in joint use partnerships and make policy, procedural, and research recommendations to better support the joint use of public schools throughout the country.

[Download Full Report \(PDF\)](#)
[Download Executive Summary \(PDF\)](#)



Connecting Sectors

Joint Use Schools Initiative

California School Facilities

Cultivating Leadership

Engaging Students & Schools

Joint use of school facilities is a strategic tool to maximize resources and strengthen schools and communities.

**21st CENTURY
SCHOOL FUND** | IMPROVING URBAN PUBLIC
SCHOOL FACILITIES

The 21st Century School Fund (21CSF) is a relied upon force in the District of Columbia on public education, particularly related to facility planning and capital budget issues. Nationally, 21CSF and its national *Building Educational Success Together (BEST)* collaborative partners, funded by the Ford Foundation, have developed a joint research, constituency building and communications agenda to improve urban school facilities across the country. CC&S is one of nine member organizations in BEST.

Other Important Resources

www.jointuse.org

log in | contact

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joint use

success spotlight



new! safe places to play and be active

Communities deserve safe places to play and be physically active. By working together and forging joint use deals, physical activity parks and recreation, transportation, business, and education advocates can transform high-traffic areas and improve physical activity environments for children and adults. Learn more about strategies to improve access to activity environments by downloading [Safe Places to Play](#).

joint use locator



discuss:

this week: state support for joint use [more >](#)

[all topics >](#)

resources:

joint use -- the sharing of space between schools and communities -- makes it easier for people to be active and healthy. lets make it happen where you live. [more >](#)

see the problem:



get updates in your inbox  find us on Facebook  follow us on Twitter

Other Important Resources

http://www.phlpnet.org

nplan NATIONAL POLICY & LEGAL ANALYSIS NETWORK
TO PREVENT CHILDHOOD OBESITY
A Program of Public Health Law & Policy | Explore our other programs

childhood obesity

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Does your state allow – or possibly even encourage or require – opening school grounds for use by the community? In these lean economic times, it makes sense to find out and take advantage of state laws that may work for your community when considering joint use agreements. These products from NPLAN provide an overview: laws addressing the joint use of school facilities in all 50 states.

Our Fifty-State Scan of Laws Addressing Community Use of Schools is a state-by-state overview of statutes about whether school property can be used by the community for recreation. You can also learn about special rules regarding liability, fees, insurance, joint use, or applicability to K-12 or universities/colleges. (Not all states have these types of laws, and not all the statutes cover the same issues. This is a useful starting place to find out if your state allows community use of school property and facilities, but you should also check out our full suite of joint use resources, contact us for technical assistance, or consult with key people in your local school districts and communities for more information.)

The Summary of Legal Rules Governing Liability for Recreational Use of School Facilities focuses on liability at a somewhat more sophisticated level, outlining what general liability standards are applied, as well as any limitations on liability or damages. This summary is especially useful for anyone who already knows that community use of school property is allowed in their state, but wants to get a better understanding of how their state might apply liability rules for injuries that occur during community use of school facilities. (Because this is a somewhat technical document, we recommend that you also follow up with our staff for technical assistance, or contact a local lawyer if you are seeking legal advice or representation.)

Be sure to check out all of NPLAN's [model joint use agreements and resources](#).

RELATED DOCUMENTS

- Fact Sheet: What is a Joint Use Agreement?
- Water Access in Schools: Model Wellness Policy Language
- Model Physical Activity Standards for Child-Care Providers (For Intent Through Preschool-Age Children)
- State Attorneys General: Allies in Obesity Prevention

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Fifty-State Scan of Laws Addressing Community Use of Schools (PDF, Updated 3/10)	352.23 KB
Summary of Legal Rules Governing Liability for Recreational Use of School Facilities (PDF, Updated 4/10)	558.65 KB

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Opening School Grounds to the Community After Hours

A toolkit for increasing physical activity through joint use agreements

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LIABILITY FOR VOLUNTEERS IN THE WALKING SCHOOL BUS PROGRAM

MINNESOTA LAW PROVIDES PROTECTION FROM LIABILITY CLAIMS

July 2010

A WALKING SCHOOL Bus Program aims to get children walking to and from school in groups accompanied by adults. It encourages students and adults to be more physically active and social. The program is ideal for neighborhoods that have a school within walking distance.

Adult volunteers are essential to the Walking School Bus Program. They are responsible for organizing the program and for walking the children to and from school. Adult volunteers are expected to act responsibly—just as they would with their own children. Provided that adult volunteers act reasonably and with good intention, a Minnesota statute will protect them from liability claims for accidents that occur during the course of volunteering.

Q What is liability?

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A Studies have shown that regular physical activity can increase self-confidence and overall health in young people.¹ Schools and community groups across the country are looking for ways to make exercise part of a regular routine through a variety of recreational activities, including Safe Routes to School initiatives.² However, concerns about liability often prevent schools and community organizations from adopting such programs. There is no magic formula to avoid being sued, but schools and community organizations can reduce their exposure to liability by utilizing risk management strategies.³ Requiring parents and/or students



WAIVERS AND RELEASES: MANAGING LIABILITY RISK FOR YOUTH RECREATIONAL ACTIVITIES IN MINNESOTA

June 2011

Q What is liability?

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A Put simply, liability is a legal responsibility. Typically, for you to be held liable, someone must prove that:

- » You owed them a duty of care;
- » You failed to perform that duty or did so negligently; and
- » Your negligence caused someone harm that could have reasonably been expected to occur.⁴

Q What is a person's "duty of care"?

A The duty you owe someone depends on the circumstances. Generally, everyone has the duty to act with reasonable care toward others. What is considered reasonable also depends on the circumstances.

Q What is "negligence"?

A Negligence is the failure to act as carefully as an ordinary, reasonable person would in the same situation.⁵

Q What is "cause of harm"?

EACH SCHOOL day presents an opportunity for students of all ages to practice healthy behavior. School districts can improve student health in schools through well designed policies tailored to a community's individual needs and resources. As of Minnesota school districts updated their policies to include, farm to school, school, school gardens, and recreational use of school property. An appropriate policy can advance student nutritional physical activity and healthy lifestyles.

about liability can help them from implementing policies that be beneficial to student unity members. In Minnesota, law provides school districts protection from liability for demonstrating a careful cost budget, safety, education or other important concerns.

Q What is liability?



SEARCH:

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depends on the situation. The general expectation is that you act reasonably toward others given the circumstances.

June 2011

Improving health through the power of law



Active Living

Policy tools and legal resources to promote physical activity in safe accessible environments

- Healthy Eating
- Active Living **Welcome**
- Tobacco Control
- Public Health Law Basics
- Other Public Health Law
- Network for Public Health Law

Announcement New Publications Current News Upcoming Events

Network for Public Health Law: First Annual Report



The Network for Public Health Law has released its first annual report, summarizing the impressive achievements of its inaugural year of operation. With its National Coordinating Center at the Center for Public Health Law, and regions housed at prestigious academic centers across the country, the Network provides insightful legal technical assistance and practical resources on emerging public health issues to officials, practitioners, attorneys, policy-makers and advocates—all at no cost. Most importantly, the Network provides a platform for public health practitioners and legal experts to share their own knowledge and experiences. In only a year, the Network has won accolades for delivering 45 training presentations, assisting the public health community with nearly 400 legal issues across the full spectrum of health law, and attracting nearly 2,000 members. Other regions of the Network are located at the University of Michigan School of Public Health, the University of Maryland Law School/Johns Hopkins School of Public Health, the University of North Carolina School of Global Public Health/National Health Law Program, and the Arizona State University College of Law/University of New Mexico School of Law. Read the Network's report at <http://www.networkforphl.org/assets/rep1yh/annualreport2011.pdf>

Public Health Policy Change Webinars

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