

# 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 establish formal agreements with public or private entities to jointly use either school facilities or community facilities in order to share costs and risks. In adopting policy on this topic, districts are encouraged to review CSBA's policy brief Maximizing Opportunities for Physical Activity Through Joint Use of Facilities and CSBA's publication Building Healthy Communities: A School Leader's Guide to Collaboration and Community Engagement for tips regarding successful collaboration, information about funding sources for joint use, suggested components of joint use agreements, model agreements, and additional resources.

Use of school facilities by the community also may be accomplished through the Civic Center Act (Education Code 38130-38138) and programs such as the After School Education and Safety Program (Education Code 8482-8484.6) and 21st Century Community Learning Centers (20 USC 7171-7176; Education Code 8484.7-8484.9); see BP/AR 1330 - Use of School Facilities and BP/AR 5148.2 - Before/After School Programs.

In order to ensure the efficient use of public resources and increase access to needed services, the Governing Board may enter into an agreement with any public agency, public institution, and/or community organization to use community facilities for school programs or to make school facilities or grounds available for use by those entities. Such an agreement 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 School 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 and Activity)*
- (cf. 6145.2 - Athletic Competition)*
- (cf. 6163.1 - Library Media Centers)*
- (cf. 7000 - Concepts and Roles)*
- (cf. 7131 - Relations with Local Agencies)*

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 a potential partner agency, institution, or organization. He/she shall involve that partner, appropriate district and school staff, and community members in establishing planning processes, goals and priorities for joint use, locations where programs or facilities are most needed, and protocols for ongoing communication and coordination between the partners.

- (cf. 1220 - Citizen Advisory Committees)*

**JOINT USE AGREEMENTS** (continued)

The Superintendent or designee shall work with the partner agency, institution, or organization to develop a written site-specific joint use agreement that delineates the terms and conditions for joint use of the district or community facilities and the responsibilities of all parties. As appropriate, the agreement may address:

1. The underlying philosophy or reasons for entering into the joint use agreement
2. The specific district or community facilities or grounds that will be made available to the other party and areas that will be restricted
3. Priorities for use of the property
4. Hours that the property will be available for use by the district, the partner, or other parties
5. Projected capital costs, if any, and operating costs

*(cf. 7110 - Facilities Master Plan)*  
*(cf. 7150 - Site Selection and Development)*  
*(cf. 7210 - Facilities Financing)*

6. Resources to be allocated by the district and the partner

*(cf. 3100 - Budget)*

Note: Education Code 38134 authorizes the district to charge a facilities usage fee to nonprofit organizations that promote youth and school activities, provided that the amount does not exceed the district's direct costs and 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.

7. Rental or other fees, if any, to be charged to either party or third parties using the facilities
8. Responsibilities for management, scheduling, maintenance, on-site supervision, accounting, and other operations
9. Procedures and timelines for requesting use of the facilities
10. Code of conduct for users of the facilities and consequences for violations of the code

*(cf. 3513.3 - Tobacco-Free Schools)*  
*(cf. 3515.2 - Disruptions)*  
*(cf. 5131 - Conduct)*  
*(cf. 5131.5 - Vandalism and Graffiti)*

**JOINT USE AGREEMENTS (continued)**

11. 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)*  
*(cf. 3517 - Facilities Inspection)*

12. Safety and security measures

*(cf. 0450 - Comprehensive School Safety Plan)*  
*(cf. 3515 - Campus Security)*  
*(cf. 3516 - Emergencies and Disaster Preparedness Plan)*  
*(cf. 5142 - Safety)*

Note: In general, the California Tort Claims Act, also known as the Government Claims Act, (Government Code 814-825.6, 830-840.6) protects the district against liability for injuries to individuals using school property, although some conditions or circumstances could result in the district being held liable in the event of an injury. 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. See AR 1330 - Use of School Facilities.

CSBA's policy brief Maximizing Opportunities for Physical Activity Through Joint Use of Facilities recommends that districts minimize liability by adequately maintaining the property, ensuring they have 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 through an indemnity clause in the joint use agreement. The district should consult its legal counsel, joint powers authority or insurance carrier, and/or risk manager regarding potential risks and liability prior to entering into a joint use agreement.

13. Liability, insurance, and risk management issues

*(cf. 3320 - Claims and Actions Against the District)*  
*(cf. 3530 - Risk Management/Insurance)*  
*(cf. 9260 - Legal Protection)*

14. Duration of the agreement, process for amending the agreement, and the bases for cancelling or terminating the agreement before the expiration date
15. Process for resolving disputes regarding any aspect of the agreement
16. How any equipment purchased or other investments made through the agreement will be disposed of at the termination of the agreement

The agreement shall be reviewed by legal counsel and approved by the Board.

**JOINT USE AGREEMENTS** (continued)

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 partner.

The Superintendent or designee shall provide regular reports to the Board 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 report 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: (see next page)*

## JOINT USE AGREEMENTS (continued)

### *Legal Reference:*

#### EDUCATION CODE

8482-8484.6 *After School Education and Safety Program*  
8484.7-8484.9 *21st Century Community Learning Centers*  
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 *School holidays; use of facilities when school is closed*  
38130-38138 *Civic Center Act, use of school property for public purposes*  
44808 *Exemption from liability when students not on school property*

#### BUSINESS AND PROFESSIONS CODE

25608 *Alcoholic beverages on school premises*

#### GOVERNMENT CODE

814-825.6 *Liability of public entities and employees*  
830-840.6 *Liability; dangerous conditions on property*  
895-895.8 *Liability; agreement between public entities*  
989-991.2 *Local public entity insurance*

#### UNITED STATES CODE, TITLE 20

7171-7176 *21st Century Community Learning Centers*  
7905 *Equal access to public facilities*

### *Management Resources:*

#### CSBA PUBLICATIONS

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

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

#### NATIONAL POLICY AND LEGAL ANALYSIS NETWORK TO PREVENT CHILDHOOD OBESITY PUBLICATIONS

*Model California Joint Use Agreements*

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

*Checklist for Developing Joint Use Agreements, March 2009*

#### PUBLIC HEALTH LAW AND POLICY PUBLICATIONS

*Opening School Grounds to the Community After Hours: A Toolkit for Increasing Physical Activity Through Joint Use Agreements, 2010*

#### WEB SITES

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

California Project LEAN (Leaders Encouraging Activity and Nutrition):

<http://www.californiaprojectlean.org>

Cities Counties and Schools Partnership: <http://www.ccspartnership.org>

Joint Use Statewide Task Force: <http://www.jointuse.org>

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

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