

# THE RISK OBSERVER

FOUNDED 2006 — VOL. CLXI

PROFESSIONAL UNDERWRITERS

DAILY 5 CENTS, SUNDAY 15 CENTS

## COMMUNITY USE OF SCHOOLS

Community use of school district facilities is one of the more difficult and at times contentious concerns of boards of education. These concerns have been heightened by the potential for serious loss, both in terms of user injury and the potential for property damage.

In many school districts, the school facilities represent the primary community recreation resource and are used heavily for a wide range of activities. Some of these activities have little direct bearing on the educational programs and indeed, many do not involve school age children but rather the adult population.

In general, school facility use aside from school sponsored activities fall into four broad categories:

- Those which are organized to enhance the school programs such as parent support groups.
- Activities for school age children such as scouting and recreation programs.
- Adult recreation such as sports leagues, theatre groups and the like.
- Playgrounds for parents and their children or adults who need considerable open space for such things such as golf practice, model airplane flying, jogging, snowmobiling, and other similar activities.

All of the people involved in the above activities feel that they have a special relationship to the schools whether they are supportive, child centered activities or resident taxpayers who feel they are due a personal return on their investment. Indeed, it would do the district a disservice in terms of public support for its basic mission, if the board of education was narrowly restrictive in its approval of such use. The fact remains, however, that people, both children and adults, are injured in all of these activities and do make claims against school districts because of their injuries. In addition, considerable damage has been done to school facilities during these uses, ranging from tire ruts in soft turf areas to major fires in school buildings, and even claims for lost revenue when a fund raising event was canceled due to unavailability of the scheduled space.

Can the concerns of the board of education for the liability and property loss exposure be reconciled with an open school policy? Yes, it can be if the community understands that the board of education acts, by law, in a trusteeship role to protect the assets of the district for the purpose of the effective, efficient education of the children of the district and that other use of school facilities is appropriate but secondary to this primary responsibility.

Given this understanding, it is possible to construct policy and rules which encourage community use of school facilities while at the same time protecting the district against unwarranted loss. For rules to be effective, they must be clear, unambiguous, understood, and enforced. If they cannot be enforced, they must be revised or modified until they can be. Unenforced rules are no defense against a liability claim no matter how well intentioned and explicitly set forth.



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A good way to present the rules to user groups is to make them a part of an agreement between the district and each and every user group, no matter who or what the group comprises. This serves three important purposes. In addition to being sure the representatives of the users have seen and understood the rules; such an agreement provides an invaluable record of school use for both budget and public relations purposes. It also provides an opportunity for central administration review of activities that may present unusual circumstances and hazards prior to final approval.

Such an agreement would typically include an identification of the user group, the number of participants and their age group, the facilities desired with times and dates, any special equipment or services needed and most importantly, a detailed description of the kinds of activities that will occur. The representative of the user group signing the agreement should understand that he or she must act responsibly and this can be implied by labeling this person's signature under the line by such a statement as follows: *as the responsible representative of the user group I understand and agree to abide by the rules attached hereto.* A preliminary signature by a building administrator will serve to determine that the space desired is available at the times requested at that site and the agreement can then be forwarded for central review and final approval. This, of course, implies that the request is made in a timely fashion to meet the districts requirements for review.

Listed below are some of the rules which might be considered for inclusion in such an agreement:

1. The use of tobacco, alcoholic beverages and illicit drugs should be prohibited. These contribute to fire hazards and bodily injury.
2. Use will be confined to the spaces or rooms reserved and further use is prohibited.
3. No use of building space will be permitted without the presence of a district employee. That is, groups will not be allowed in a building when it is closed and otherwise unoccupied.
4. Use of special facilities such as kitchens, stages, and libraries will not be permitted without an employee present who regularly works in such an area.
5. Alterations or substantial rearrangement of facilities and equipment will not be permitted.
6. Parking will be in designated areas only and all life safety rules such as free access to fire exits will be maintained.
7. Children must be properly supervised and no group will be admitted which does not have at least one adult present for each given number of children, depending on the activity. Children who are in very large groups or are engaged in very active pursuits should have plenty of adult supervision.
8. The district will not be held liable for any damages, direct or consequential, if for any reason, the facilities agreed upon are not made available.
9. the user group will not sub-let the space to another organization or group and merely act as an agent for what might otherwise be a non-permitted use.
10. Certain spaces should not be used by the public under any circumstances. These would include offices where pupil records are kept, shops, laboratories, and other similar areas where potentially dangerous or high value equipment is regularly kept.
11. Failure to observe these rules will result in suspension of the use privilege for a certain period of time. School districts really have no other means to obtain compliance. Districts that fail to respond to rules violations will soon find they have no rules. The school facilities are valuable and made available as a privilege, not a right.



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12. Each member of an adult group should sign a waiver of the right to make a claim against the district for any loss or injury before being permitted to participate.
13. Under certain circumstances, all user groups should be required to provide the district with surety that will defend the district and pay claims against it for injury or property loss. The district should never accept the risk of liability for events over which it has no control. This is, of course, sometimes difficult to enforce when dealing with district groups which are “doing something for kids”. Under ordinary circumstances it may be appropriate for the district to assume the risk of loss but when an activity clearly imposes a risk beyond the ordinary, the good stewardship by the board requires that the event be held elsewhere or the district be protected. The political consequences of a serious claim or loss far outweigh the consequences of denial of use without insurance. The need for organizations in your community to raise funds while using your facilities should never obscure the very real potential for loss and such events as circuses, donkey ball games, balloon ascents, and similar events do pose a serious risk of loss. Even the PTA does not have the right to jeopardize the ability of the district to obtain insurance at a reasonable cost if its activities may result in serious injury or property damage.

Finally, you should also protect yourself insofar as possible against claims resulting from injuries suffered through casual use of your grounds. Since it is difficult if not impossible to restrict such use, you should do everything possible to insure that there are no unanticipated hazards present such as defective playground equipment, holes in the fields, broken glass or other sharp objects on the ground and other dangerous conditions. You should also clearly post your equipment and grounds in as many places as necessary with the rules of such use. Such rules might include the prohibition of use between sunset and sunrise, the use of firearms, motor vehicles in any areas except roads and parking areas, a complete ban against unregistered motor vehicles, horse riding, playing golf, and other similar activities.

You should indicate that very young children should be accompanied by adults. You can also state that all risk of injury or loss is assumed by the user but this will not be a very useful defense against claims for injury to young children who cannot understand and appreciate the warning.

Community awareness of your rules will also help deter suits for liability. This should be done in the local media with a clear explanation of why the rules are necessary and that in effect they benefit the entire community.

