

Community Relations

BP 1330(a)

USE OF SCHOOL FACILITIES

Note: Education Code 38133 **mandates** that the Governing Board develop rules and regulations related to the management, direction, and control of school facilities. Pursuant to Education Code 38130-38138 (the Civic Center Act), school facilities are civic centers and, under certain circumstances, members of the school community must be allowed to use them for specified purposes. In granting access for use of school facilities to district residents and community groups, the Board must be careful to avoid discriminating against certain individuals, groups, or viewpoints and thereby violating constitutional requirements, including free speech rights. In Good News Club v. Milford Central School, the U.S. Supreme Court held that the school district violated the club's free speech rights when it denied the club use of school facilities for after-school meetings because of the religious nature of the meetings.

*The Governing Board believes that school facilities and grounds are a vital community resource which should be used to foster community involvement and development. Therefore, the Board authorizes the use of school facilities by district residents and community groups for purposes specified in the Civic Center Act, to the extent that such use ~~shall be scheduled so as~~ **does** not ~~to~~ interfere with ~~the regular instructional program of the district~~ school activities or other school-related uses.*

(cf. 6145.5 - Student Organizations and Equal Access)

~~The Governing Board may grant the use of school buildings or grounds for public, literary, scientific, recreational, educational, or public agency meetings, or for discussion of matters of general or public interest upon such terms and conditions as the Board deems proper in the California Education Code (Education Code 40040).~~

~~School property must be protected from damage and mistreatment and ordinary precautions for cleanliness maintained. Groups are responsible for the condition in which they leave the building. In cases where school property is damaged or abused beyond normal wear, the same shall be paid for by the organization involved.~~

~~Use of school buildings or grounds shall be prioritized to ensure that all educational programs and/or activities of the district **shall** have first call on the facilities **and grounds**. School-related programs and activities, organized community groups for conducting youth activities, and local community groups for conducting activities in accordance with the Civic Center provisions of the Education code shall have priority of facility use in that respective order. **The Superintendent or designee shall give priority to school-related activities in the use of school facilities and grounds. Other uses authorized under the Civic Center Act shall be on a first-come, first-served basis.**~~

Note: Pursuant to Education Code 38133, the Board is **mandated** to develop rules and regulations which must include the items specified below for the management, direction, and control of school facilities.

For the effective management and control of school facilities and grounds, the Superintendent or designee shall maintain procedures and regulations that: (Education Code 38133)

- 1. Aid, encourage, and assist groups desiring to use school facilities for approved activities*

USE OF SCHOOL FACILITIES (continued)

2. Preserve order in school facilities and on school grounds and protect school facilities, designating a person to supervise this task, if necessary

(cf. 0450 - Comprehensive School Safety Plan)

(cf. 3516 - Emergencies and Disaster Preparedness Plan)

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

Note: The following paragraph is **optional and may be modified** to reflect district practice.

Subject to prior approval by the Board, the Superintendent or designee may grant the use of school facilities on those days on which the school is closed. (Education Code 37220)

(cf. 6115 - Ceremonies and Observances)

~~***No privilege of using the buildings or grounds shall be granted for a period exceeding one year. The privilege is renewable and revocable at the discretion of the Board at any time. (Education Code 40043).***~~

There shall be no advertising on school facilities and grounds except as allowed by district policy specified in BP 1325 - Advertising and Promotion.

(cf. 1325 - Advertising and Promotion)

Note: The following **optional** paragraph may be modified to reflect district practice. A district may enter into an agreement with another entity for the joint use of school facilities or grounds. For considerations to guide the development of such an agreement, see BP 1330.1 - Joint Use Agreements. Any district interested in entering into any such agreement is also 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.

As necessary to ensure efficient use of school facilities, the Superintendent or designee may, with the Board's approval, enter into an agreement for the joint use of any school facilities or grounds. The Board shall approve such agreements only if it determines that it is in the best interest of the district and the community.

(cf. 1330.1 - Joint Use Agreements)

Note: Education Code 38134 authorizes districts to charge an amount "not exceeding" direct costs for the use of school facilities or grounds by community groups and entities. Pursuant to 5 CCR 14041, as added by Register 2014, No. 19, the Board is required to adopt a fee schedule that specifies the hourly fee to be charged by the district either for specific school facilities and grounds or for types or categories of school facilities or grounds (e.g., all gymnasiums or playgrounds), when the district chooses to charge fees for community use of school facilities and grounds.

USE OF SCHOOL FACILITIES (continued)

Fees

The Board shall adopt a comprehensive schedule of fees to be charged for community use of school facilities and grounds, including, but not limited to, the multipurpose room(s), playing or athletic field(s), track and field venue(s), tennis court(s), and outdoor basketball court(s). The schedule of fees shall be prepared in accordance with 5 CCR 14037-14041. (5 CCR 14041)

(cf. 9320 - Meetings and Notices)

~~*The Board shall grant the use of school facilities or grounds without charge to school-related organizations whose activities are directly related to or for the benefit of district schools. All other groups requesting the use of school facilities under the Civic Center Act shall be charged an amount not to exceed direct costs. However, if the use of school facilities or grounds is for religious services, the group shall be charged an amount that equals or exceeds direct costs determined in accordance with Education Code 38134.*~~

Note: In addition, Education Code 38134 **mandates** each district to adopt a policy specifying the activities and organizations that shall be charged an amount not to exceed direct costs. 5 CCR 14037-14041, as added by Register 2014, No. 19, contain specific rules adopted by the State Board of Education for determining "direct costs" to be charged for use of school facilities and grounds.

OPTION 1: (Amount not exceeding direct costs to all community groups)

The Board believes that the use of school facilities or grounds should not result in costs to the district. The Superintendent or designee shall charge all groups granted the use of school facilities or grounds under the Civic Center Act an amount not exceeding direct costs determined in accordance with 5 CCR 14037-14041. (Education Code 38134)

Note: Pursuant to Education Code 38134, any group authorized to use school facilities for religious services must be charged "at least" direct costs.

Additionally, when any use of school facilities or grounds is for religious services, the district shall charge an amount at least equal to the district's direct costs. (Education Code 38134)

Note: The following paragraph provides **specific guidance for calculating "direct costs"** that a district may charge community groups and organizations for the use of school facilities or grounds. Pursuant to 5 CCR 14038, as added by Register 2014, No. 19, the district must determine the "proportionate share" of allowable capital and operational direct costs as provided below.

~~*In determining direct costs to be charged for community use of school facilities or grounds, including, but not limited to, playing or athletic fields, track and field venues, tennis courts, and outdoor basketball courts, the Superintendent or designee shall include a proportionate share of the costs of the following:*~~ *the Superintendent or designee shall*

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calculate, in accordance with 5 CCR 14038, the community's proportionate share of the following costs: (Education Code 38134; 5 CCR 14038-14041)

1. ~~Supplies, utilities, janitorial services, other services of district employees, and salaries of district employees directly associated with operation and maintenance of the school facilities or grounds involved~~ *Capital direct costs calculated in accordance with 5 CCR 14039, including the estimated costs of maintenance, repair, restoration, and refurbishment of non-classroom space school facilities or grounds*
However, capital direct costs shall not be charged to organizations retained by the district or school to provide instruction or instructional activities to students during school hours or for classroom-based programs that operate after school hours, including, but not limited to, after-school, tutoring, and child care programs, direct costs to be charged shall not include the cost of maintenance, repair, restoration, or refurbishment of the school facilities or grounds. (Education Code 38134) (5 CCR 14037)

(cf. 5148 - Child Care and Development)
(cf. 5148.2 - Before/After School Programs)

2. ~~Maintenance, repair, restoration, and refurbishment of the school facilities or grounds~~ *Operational direct costs calculated in accordance with 5 CCR 14040, including estimated costs of supplies, utilities, janitorial services, other services of district employees and/or contracted workers, and salaries and benefits paid to district employees directly associated with the administration of the Civic Center Act to operate and maintain school facilities and grounds*

Note: The following **optional** paragraph applies to districts that choose to discount direct cost fees based on the type or category of the applicant, such as to groups with tax-exempt status as authorized pursuant to 5 CCR 14041, added by Register 2014, No. 19.

Direct cost fees shall not be discounted to any group or organization except when the discount is specifically authorized in the adopted fee schedule. (5 CCR 14041)

Note: Education Code 38134 requires the district to charge fair rental value when facilities are used for fundraising activities which are not beneficial to youth, public school activities, or charitable purposes, under the conditions specified below. "Fair rental value" is defined as direct costs plus the amortized costs of the school facilities or grounds used for the duration of the activity.

Groups shall be charged fair rental value when using school facilities or grounds for entertainment or meetings where admission is charged or contributions solicited and net receipts are not to be expended for charitable purposes or for the welfare of the district's students. (Education Code 38134)

Expending Funds Collected as Capital Direct Costs

Note: Pursuant to 5 CCR 14042, added by Register 2014, No. 19, funds collected as capital direct costs must be expended as specified in the following **optional** paragraph.

~~Change-~~

BP 1330(e)

USE OF SCHOOL FACILITIES (continued)

Any funds collected as capital direct costs shall be deposited into a special fund to be used only for capital maintenance, repair, restoration, and refurbishment of school facilities and grounds. (5 CCR 14042)

*Legal Reference:*EDUCATION CODE

10900-10914.5 Community recreation programs

32282 School safety plan

37220 School holidays

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

BUSINESS AND PROFESSIONS CODE

25608 Alcoholic beverage on school premises

GOVERNMENT CODE

54950-54963 The Ralph M. Brown Act

MILITARY AND VETERANS CODE

1800 Definitions

CODE OF REGULATIONS, TITLE 5

14037-14042 Proportionate direct costs for use of school facilities and grounds

UNITED STATES CODE, TITLE 20

7905 Equal access to public school facilities

COURT DECISIONSGood News Club v. Milford Central School, (2001) 533 U.S. 98Lamb's Chapel v. Center Moriches Union Free School District, (1993) 508 U.S. 384Cole v. Richardson, (1972) 405 U.S. 676Connell v. Higgenbotham, (1971) 403 U.S. 207ACLU v. Board of Education of Los Angeles, (1961) 55 Cal.2d 167Ellis v. Board of Education, (1945) 27 Cal.2d 322ATTORNEY GENERAL OPINIONS82 Ops.Cal.Atty.Gen. 90 (1999)79 Ops.Cal.Atty.Gen. 248 (1996)*Management Resources:*~~CALIFORNIA DEPARTMENT OF EDUCATION LEGAL ADVISORIES~~~~1101.89 School District Liability and "Hold Harmless" Agreements, LO: 4-89~~CSBA PUBLICATIONSMaximizing Opportunities for Physical Activity Through Joint Use of Facilities, Policy Brief, February 2010Building Healthy Communities: A School Leader's Guide to Collaboration and Community Engagement, 2009WEB SITESCSBA: <http://www.csba.org>California Department of Education: <http://www.cde.ca.gov>

Policy

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