



Maximizing Opportunities for Physical Activity through Joint Use of Facilities

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Recent studies have emerged linking physical activity with improved academic performance, classroom behavior and school attendance among children and youth.¹ Yet, some communities lack safe and accessible places for children to play and some schools lack adequate facilities and resources for physical activity and physical education programs.² A strategy to expand physical activity opportunities, programs and services for students, staff and the community involves the district or county office of education (COE) jointly sharing recreational facilities with another governmental agency, community-based organization or the community before, during and/or after the school day. This strategy involves sharing program costs, liability, maintenance and operations. This approach is commonly known as “joint use” because the school and other entity jointly use one or more facilities, such as gymnasiums, pools, playgrounds, school yards, playing fields, tracks and/or multi-purpose rooms.

Policies and practices that provide opportunities for physical activity, such as safe and available open space, indoor/outdoor facilities and physical activity programs and equipment, can help promote healthy behaviors, improve academic outcomes and prevent childhood obesity. In a time of shrinking budgets for school districts/COEs and local governments, joint use projects provide an opportunity to work together to identify creative solutions to achieve shared goals and priorities (see CSBA’s sample board policy BP 1330.1 – Joint Use Agreements).

Common examples of joint use include:

- 1) The district/COE opens existing school recreational facilities for public use during non-school hours. For example, San Francisco Unified School District and the City and County of San Francisco have an agreement that allows the City to unlock the outdoor playground areas for open, unsupervised use during non-school hours when such use does not conflict with educational or school co-curricular activities. (To see the agreement, see appendix 1 at http://citiesandschools.berkeley.edu/reports/CC&S_PHLP_2008_joint_use_with_appendices.pdf.)
- 2) The district/COE partners with an agency or organization for supervised physical activity programs by either opening up existing or constructing new school recreational facilities for use during school or non-school hours. For example, Sweetwater Union High School District in San Diego County has a partnership with a local soccer league, allowing the soccer league to use a school field after school hours if the league maintains it.
- 3) The district/COE partners with an agency or organization to utilize existing or construct new community recreational facilities for use during school or non-school hours. For example, the New Millennium Institute of Education has an agreement with the Fresno County Boys & Girls Club for use of its gym. (To see a video on this project, visit <http://www.jointuse.org/resources/success-spotlight/?item=2>.)
- 4) The district/COE and agency or organization have reciprocal use of each other’s indoor/outdoor recreational facilities for use during school or non-school hours. For example, the San Carlos Elementary School District and the City of San Carlos in San Mateo County have an agreement to make school facilities open to city residents outside of school hours and to make city facilities available to district recreation programs. (For a copy of the Joint Use Agreement, visit <http://preventioninstitute.org/sa/policies/pdf/text/SCarlosJointUse.pdf>.)



GETTING STARTED

Building joint use facilities and administering joint use programs requires detailed planning, ongoing administrative oversight, coordination and communication among partners. When developing joint use programs, districts/COEs should start on a small scale, such as a pilot project, so that relationships can be built and obstacles are manageable.

Step 1: Identify and assess needs

Each joint use partnership, program and facility is planned, structured and implemented differently based on the needs and values of the student population, community, school district/COE and partner organization(s). If the need for a joint use agreement arises, the school district/COE can begin the process by assessing and prioritizing the types of users and potential facilities, program costs, insurance, maintenance and operations needed.

Step 2: Establish and build relationships

Once joint use is an agreed upon strategy, the district/COE should assess possible partners within the community and establish or build upon existing positive relationships. Community partner organizations may include local governments via their park and recreation agency, nonprofit organizations, faith-based organizations or other educational institutions that are committed to sharing resources.

For information about how to create a successful collaborative, see *Building Healthy Communities: A School Leader's Guide to Collaboration and Community Engagement*, a joint publication of the California School Boards Association and Cities Counties Schools Partnership, at www.csba.org/Wellness.aspx.

Step 3: Adopt policies

The governing board can adopt a new policy or revise an existing policy that supports and encourages joint use agreements (see CSBA's sample board policies BP 1330.1 – Joint Use Agreements) and ensure alignment of this policy with the district's/COE's vision and goals and other related policies (e.g., BP/AR 1330 – Use of School Facilities, BP 1020 – Youth Services, BP 7000 – Concepts and Roles, BP 7110 – Facilities Master Plan, BP/AR 6142.7 – Physical Education and Activity, BP 5030 – Student Wellness and others listed in this brief.)

Step 4: Develop a joint use agreement

A joint use agreement is the formal agreement between agencies—often a school district/COE and a city or county—that sets the terms, conditions and responsibilities of each party sharing the facility or public grounds. Typically, each party under a joint use agreement contributes resources to develop, operate and maintain the facility or facilities that will be shared. There is no single method to develop an agreement. Joint use agreements can be relatively simple (e.g., providing staffing to open the school grounds to the public outside of school hours) or complex (e.g., allowing community members or groups to access all school recreation facilities and allowing schools to access all city, county or community-based organization's recreational facilities). Before entering into a joint use agreement with an outside partner, the district/COE should ensure buy-in from school level personnel (e.g. principals, maintenance staff, teachers, etc.), students and parents.

- The National Policy and Legal Analysis Network (NPLAN) to Prevent Childhood Obesity, a program of Public Health Law & Policy (PHLP), has legal research, model joint use agreements and fact sheets on joint use. NPLAN's resources include a "Checklist for Developing joint use agreements," designed to identify the key elements to consider when developing a joint use agreement. For these resources, visit <http://nplanonline.org/focus/community-environment>.
- Planning for Healthy Places, a program of PHLP, has developed a toolkit on Opening School Grounds to the Community After Hours: A Toolkit for Increasing Physical Activity Through Joint Use Agreements to help communities and school districts/COEs work together to increase access to recreational facilities on school grounds. For this toolkit, visit www.phlpnet.org/healthy-planning/products/joint_use_toolkit.
- The California Pan-Ethnic Health Network has developed a publication that provides models of Joint Use Agreements, advice for overcoming challenges and recommendations for moving forward with joint use in *Unlocking the Playground: Achieving Equity in Physical Activity Spaces*. For this publication, visit <http://www.cpehn.org/pdfs/Joint%20Use%20Brief.pdf>.

ADDRESSING LIABILITY

California has laws that encourage and support schools opening their facilities to the community for recreation or other civic uses (see CSBA's sample board policies and administrative regulations BP/AR 1330 – Use of School Facilities and BP/AR 5148.2 – Before/After School Programs). Nonetheless, school officials may be hesitant to do so because of safety or liability concerns.³ Although there are laws to protect school districts/COEs against liability for injuries to individuals using school property for recreation (Government Code Sections 810 *et seq.*, 815 and 831.7), some conditions or circumstances will result in the district/COE being held liable in the event of an injury (Government Code Sections 835, 835.2, 835.4, 815.6, 831.7(6)(1) – (3)).⁴

School districts/COEs can protect themselves against risk of loss, damage or liability by maintaining their property, assuring they have the proper insurance in place and requiring that organized groups who use their property—such as sports leagues—maintain the proper insurance (see CSBA's sample BP/AR 3530 – Risk Management/Insurance, BP/AR 5143 – Insurance and BP/AR 1330 – Use of School Facilities).

Districts/COEs can also share or pass on risk of liability to their partner agency. A joint use agreement can include an “indemnity clause,” a provision in the agreement by which one party agrees to be responsible for part or all of any liability the other party might incur. The district/COE can require the joint use partner to wholly or partially indemnify the district/COE for any potential liability under the agreement. Opening school facilities for community use is generally more cost effective for local governments than constructing new facilities. As a result, a local government may be willing to assume all or some of the liability risk incurred as stated in the agreement. For example, the City of San Francisco utilizes 12 schools within the San Francisco Unified School District for open, unsupervised use to increase the amount of recreational space available to the public. The city assumes the liability and responsibility (e.g., injury, vandalism or littering) for any recreational activities on the school grounds that result from the joint use activities. The city is self-insured by allocating general fund money to cover liability-related costs.⁵

Prior to entering into joint use agreements, districts/COEs should consult their legal counsel, insurance carrier and/or risk manager regarding potential risks and liability. As there is no “one size fits all” joint use partnership, districts/COEs need to ensure that the agreement is tailored to the specific activities and facilities that will be used, and that the district's insurance provides adequate protection under the circumstances proposed.

NPLAN developed the following resources on joint use liability in California:

- A fact sheet on *Liability for Use of School Property After Hours: An Overview of California Law*, nplanonline.org/files/Liability_SchoolUse_FactSheet_FINAL_090713.pdf.
- A more in-depth publication on *Liability Risks for After-Hours Use of Public School Property to Reduce Obesity: California*, nplanonline.org/files/CA_JointUse_Final_SP_20090311.pdf.

NPLAN provides legal information on matters relating to public health, but the legal information is not intended to substitute for advice of legal counsel.

GETTING JOINT USE PROJECTS FUNDED

Depending on the type of joint use project a district/COE and partner organization decide to pursue, there are a variety of funding sources available. Funding for constructing joint use facilities or programs that provide before or after school physical activity may include federal, state and local grants; local school bond matching funds; or in-kind programmatic funds provided by the joint use partner.

Facilities funding

Funding for constructing joint use facilities may come from a variety of state and local sources,⁶ such as:

- **School Facility Program.** Overseen by the California State Allocation Board's (SAB) Office of Public School Construction (OPSC), this program may grant funding to construct joint use facilities on school campuses through state general obligation bonds (Education Code 17051-17052). State funding is limited to

the construction or modernization of indoor school facilities, such as multi-purpose rooms, gymnasiums, childcare facilities, libraries or teacher education facilities. State funding requires a 50/50 state and local match of project costs. To be eligible for funding, a K–12 district/COE must enter into a joint use agreement with another governmental agency, a public higher education institution or a nonprofit organization approved by the SAB. Also, the district/COE must demonstrate that the facility will be used to the maximum extent possible for both school and community purposes (Education Code 17077.40-17011.45). (See CSBA's sample BP 7210 – Facilities Financing, BP/AR 7140 – Architectural and Engineering Services and BP 7111 – Evaluating Existing Buildings.)

For more information on state facilities funding, visit the following OPSC Web links:

- SAB's *Overview of State School Facility Programs*: www.documents.dgs.ca.gov/OPSC/Publications/Other/SFP_Info.pdf
 - SAB's *School Facility Program Handbook: A Guide to Assist with Applying for and Obtaining Grant Funds*: www.documents.dgs.ca.gov/OPSC/Publications/Handbooks/SFP_Hdbk.pdf
 - SFP's Joint-Use Program Web site: www.opsc.dgs.ca.gov/Programs/SFPprogams/JU.htm
 - SFP's Joint Use Program: Frequently Asked Questions: www.opsc.dgs.ca.gov/Programs/SFPprogams/JU_FAQ.htm
 - SAB's *Public School Construction Cost Reduction Guidelines* contains strategies to help control and reduce costs when planning joint use projects: www.documents.dgs.ca.gov/opsc/Publications/Other/Cost_Rdt.pdf.
- **Local general obligation bonds.** School districts/COEs can use these bond funds for school construction projects (see Case Study). Local bonds must be approved by two-thirds of the vote within the district/COE, or by 55 percent under specific conditions. They are repaid using local property tax revenue. (See CSBA's sample BP/AR 7214 – General Obligation Bonds.)

- **Special bond funds.** Known as “Mello Roos” bonds, these funds allow school districts/COEs to form special districts to sell bonds for school construction projects. These bonds require two-thirds voter approval and are paid off by the property owners in the special district. (See CSBA's sample BP 7212 – Mello Roos Districts.)
- **School facilities improvement districts.** If the county board of supervisors has adopted a resolution to make Education Code 15300-15303 applicable in the county, school districts can create a school facilities improvement district to issue general obligation bonds for school facilities within a specific geographical area of the school district's territory. (See CSBA's sample BP 7213 – School Facilities Improvement Districts.)
- **Developer impact fees.** Some school districts/COEs are allowed to charge a voluntary fee that is reasonably related to the cost of the service provided on new residential, commercial or industrial developments for school construction projects. These fees vary significantly by community depending on local development. (See CSBA's sample BP/AR 7211 – Developer Fees.)

Program funding

Funding for joint use programs that provide before or after school physical activity may come from a variety of federal, state and local sources, such as:

- **21st Century Community Learning Centers.** This federal program supports the creation of community learning centers to provide academic enrichment opportunities during non-school hours for children, particularly students who attend high-poverty and low-performing schools. Eligible K–12 districts/COEs receive an award from the state to carry out a broad array of before- and after-school activities, including recreational activities. For more information, visit the U.S. Department of Education at www.ed.gov/programs/21stccclc/index.html.
- **After School Education and Safety.** This state program supports the establishment of local before and after school programs, which may include after school physical activity programs. These programs are created through partnerships between schools and local community resources. School districts, COEs and charter schools serving K–9 students are eligible to apply. For more information, visit www.cde.ca.gov/ls/ba/as.

- **Joint use partner funds.** Public agencies, such as parks and recreation agencies, may have a variety of funding sources available that can bring funding for capital expenses or operational costs.
- **Private foundation grants.** Check with local community, state or national foundations and other private funding sources about the possibility of applying for funding. Districts/COEs can partner with other agencies or nonprofit organizations to solicit grant funding from a wider spectrum of sources that may not otherwise be available.
- **Fee for facility utilization.** Organized groups who utilize the facilities, such as sports groups, can be charged a fee to lease the facilities or grounds (see Education Code sections 38130-38138). Consult with legal counsel to pursue this option.
- **Business sponsorships.** Local businesses can sponsor sporting events, team sports and various youth activities.

For more information on joint use funding, see the California Pan-Ethnic Health Network's *Primer on Joint Use* at www.cpehn.org/pdfs/Joint%20Use%20Primer%20-%20CPEHN%204-09.pdf.

CASE STUDY

While there are many types of joint use agreements, this case study highlights one district's actions to construct a joint use facility and provide after-school recreational programs in partnership with a local government agency and a nonprofit organization.

In an effort to address growing concerns for childhood obesity, the dire need for open space, safe places for children to play, gang activity and dropout rates, Oakland Unified School District, the City of Oakland and the Unity Council partnered to provide a community-based school designed to support after-school physical activity programs for the district's K–12 students and families.

The city donated a piece of land to OUSD to develop the Cesar Chavez Education Center. Funding to build the Center and state-of-the-art synthetic surface soccer fields came from the city and the proceeds from a local general obligation bond. After the Center was built, OUSD and the Unity Council partnered to bring after-school sports programs to the district's students. Scheduling, maintenance and operations of the playing fields were established by a formal joint use memorandum of understanding. The MOU had the support of the district's board of education.

Today, the after-school soccer and basketball programs are full, with an additional 10 to 20 teams waiting to be scheduled. This partnership has increased physical activity opportunities for youth in the community where programs for youth did not previously exist. The district has reported increased academic performance, better behavior from students and decreased vandalism as a result of the program. With the help of the Unity Council, the district hopes to raise additional funds to replicate this model in 10 additional schools in the next five years.

For more information, contact:

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Visit www.jointuse.org for success stories, resources and information on how to participate in the Joint Use Statewide Taskforce, whose members include stakeholders interested in ensuring that all students have convenient and safe places to play.

THE SCHOOL BOARD'S ROLE

The governing board plays an important role in encouraging and facilitating joint use opportunities through each of its major areas of responsibility.

Setting direction for the community's schools

In establishing a district/COE vision, the board has an opportunity to emphasize the importance of increasing physical activity opportunities for student through joint use of facilities by:

- Fostering an understanding among the district/COE governance team about the importance of joint use of facilities for increasing physical activity opportunities for students and the community before, during and after school
- Fostering an understanding among the district/COE governance team about the relationship between increased physical activity, student health and learning
- Working with school personnel, parents, students and the community to identify a district/COE need that could be addressed through a joint use partnership

Establishing an effective and efficient structure for the district/COE

While the board does not implement district/COE policies and programs, it is the board's role to ensure that the district has the necessary structure and resources by:

- Identifying if the district/COE has existing joint use agreements and related policies in place
- Adopting policies that support and encourage joint use of facilities for physical activity and community use
- Collaborating with project partners to establish a joint use agreement that details the roles and responsibilities of each party
- Ensuring that joint use efforts meet state and local requirements and are aligned with the district/COE vision and goals
- Ensuring that the superintendent or designee applies for state or local funding or explores other funding sources for joint use projects and maintenance and operation funds
- Adopting and ensuring implementation of policies and practices that limit liability and risk of loss or damage to school property

Providing support

After establishing the structure, the board can support the superintendent's and staff's implementation of the district/COE joint use efforts by:

- Working to establish a positive climate of cooperation within the community by modeling collaborative behaviors in relationships with other local officials and by setting expectations for collaboration among staff
- Appointing a board representative to sit on a district planning or oversight team for developing and administering the district's/COE's joint use efforts

Ensuring accountability to the public

As elected representatives, the board is accountable to the public for the district's/COE's progress towards board-established goals. The board evaluates and communicates progress toward joint use project goals by:

- Working with the superintendent and program partners to identify indicators or measures that will be used to evaluate the effectiveness of joint use
- Scheduling regular evaluation reports to the board, program partners and the public from the superintendent or designee
- Using evaluation reports to identify progress and challenges
- Recommending revisions to the joint use agreement or related policies, if necessary

Acting as community leaders

Board members have a responsibility to act as community leaders and involve the community in meaningful ways to promote children's education and health. Regarding joint use projects, the board engages in community leadership by:

- Identifying community stakeholders and initiating or participating in joint use partnerships with government agencies and/or community-based organizations that are committed to working together
- Developing positive and long-standing relationships with partners
- Sharing information about joint use projects with students, parents and the community

ADDITIONAL RESOURCES

California School Boards Association is a collaborative group of virtually all of California's more than 1,000 school districts and COEs. CSBA supports school board members, superintendents and senior staff by producing policy briefs, publications and other resources on health issues as they relate to education, including safe routes to school, student wellness, physical education, physical activity and community collaboration on youth services. www.csba.org/wellness.aspx

California Project LEAN (Leaders Encouraging Activity and Nutrition) is a joint program of the California Department of Public Health and the Public Health Institute that focuses on youth and parent empowerment, policy and environmental change strategies, and community-based solutions to increase healthy eating and physical activity. CPL provides training, tools and technical assistance on developing, implementing and monitoring school wellness policies. www.CaliforniaProjectLEAN.org

California AfterSchool Network provides leadership and links to state policy-makers to support high-quality programs, support policies, research, public awareness campaigns, innovative strategies and networking partnerships to support opportunities for mutual learning so that after-school programs can keep children safe, inspire learning and help working families. www.afterschoolnetwork.org

California Park & Recreation Society has a database of model joint use agreements, resources and information on its Web site. It monitors joint use legislation, as well as the challenges and opportunities of joint use. www.cprs.org

Center for Cities & Schools is a think-tank housed at the University of California-Berkeley's Institute of Urban and Regional Development that bridges the fields of city planning, community development and education for more equitable schools and communities. <http://citiesandschools.berkeley.edu>

Cities Counties Schools Partnership supports the development of policies that promote the creation and preservation of communities through collaborative efforts on the local level. The partnership's work in the area of health focuses on education, recognition of successful examples and advancing public policies that address healthy communities. www.ccspartnership.org

New Schools Better Neighborhoods is an organization that serves as a third-party intermediary to front-fund, convene and manage collaborative, stakeholder planning of smaller, joint use and community-centered schools in California's urban school districts. www.nsbns.org/index.php

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