

USE OF SCHOOL FACILITIES

General Statement

The Board of education recognizes that district facilities and grounds are a vital community resource whose primary purpose and use is for school programs and activities. The Board authorizes the use of school facilities by district residents, community groups and organizations whose purpose is specified in the Civic Center Act and whose objectives contribute to the development and welfare of the community when such use does not interfere with school activities, or result in undue cost to the district.

(cf. 6145.5 – Student Organizations and Equal Access)

Certain users are subject to charge, as provided below. Such charges depend upon group categorization, with different charge levels generally ranging from Category 1 (exemption from charges) to Category II (direct cost) to Category III (fair rental charges).

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, with exception for organized youth sports use requests. City of Pasadena and PUSD work together to issue facilities equitably based on residency, longevity, good stewardship.

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

1. Aid, encourage and assist groups desiring to use school facilities for approved activities
2. Preserve order in school buildings 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 consistent with their use for school purposes and does not interfere with the regular conduct of school work.

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

(cf. 6115 - Ceremonies and Observances)

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)

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 any such agreement only if it determines that it is in the best interest of the district and the community.

(cf. 1330.1 - Joint Use Agreements)

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)

The Board approved use fees for these and all facilities as shown on Exhibit 1330, effective July 2011.

(cf. 9320 - Meetings and Notices)

If use of a facility occurs at a time when custodial staff or other district employee who is required to be present is on duty, charges will include the actual number of hours of use, with a minimum charge of 1 hour plus ½ hour.

If use of a facility occurs during the time when custodial staff or other district employee who is required to be present are not scheduled to work, overtime

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fees will include the actual number of hours of use with a minimum charge of 1 hour overtime.

When an auditorium or multi-purpose room is used for instruction, charges will be assessed at the classroom rate. When an auditorium or multi-purpose room is used for a performance (audience is present), charges will be assessed at the performance rate.

Rates in the Facility Fee Schedule shall be increased annually, effective September 1, based on the increase in the Consumer Price Index (CPI) for the prior fiscal year July 1 to June 30.

Category I (Exemption from Charges)

1. Exemption from charges is granted to non-profit organizations whose primary purpose and activities are in direct support of school or district programs, and groups that have been identified in Board Policy 1230, as school-connected organizations (e.g., PTA's, School Foundations and other parent support groups), and recognized employee organizations/associations (hereinafter referred to as "School Affiliated Groups"). When direct costs are incurred by the district, the organization shall be charged costs of supplies, equipment, utilities, custodial and other services provided by district employees necessitated by the organization's use of the school facilities and/or grounds of the district. Category I (exemption from charges) does not permit the approved organization to allow a for-profit individual or organization that charges a fee to operate within its exemptions from charges.
2. Exemptions from charges (Category I) may also be granted by the district to nonprofit, civic, and religious organizations that promote school and youth activities (hereinafter referred to as "Nonprofit Groups"). When such usage is frequent or of longer duration, or the organization charges participants for the activity, the organization shall be subject to charges for direct costs (Category II rate).
3. The City of Pasadena, as part of the Joint Use Agreement, is exempted from most facility use charges. This provision may be extended to other governmental agencies as deemed appropriate (hereinafter referred to as "Government Groups").

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Category II (Direct Costs)

1. A nonprofit group is defined as an organization that has been granted 501(c)(3) status under the Internal Revenue Code and/or school-connected organizations that meet the conditions and are approved by the Board pursuant to PUSD Administrative Regulation 1230.
2. All nonprofit groups providing activities for adults shall be charged direct costs (Category II rate). Direct costs are defined as the cost of supplies, utilities, janitorial services, services of any other district employees, and salaries necessitated by the organization's use of the facilities and grounds.
3. If the use of facilities is during the time when custodial staff or other district employee who is required to be present is on duty, salary costs will be calculated at the number of hours of actual overtime with a minimum of 1 hour.

All nonprofit youth-based groups shall be charged direct costs (Category II rate) when they charge a fee to participate in the in the activity.

4. All Western Association of Schools and Colleges (WASC) accredited institutions of higher education providing courses that directly benefit district students and/or staff members shall be charged direct costs (Category II rate).

Category III (Fair Rental Charges)

1. Where admission fees are charged or contributions are solicited and the net receipts are not expended for the welfare of the pupils of the district or for charitable purposes, fair market value must be charged.
2. Commercial entertainment programs do not qualify as community programs for civic center use. Use of school facilities for such purposes may be granted at the discretion of the district, with uses subject to the fair rental charges and fees established by the district in its discretion. Commercial filming and television activities and resulting film or broadcast product shall not specifically identify the school facilities, staff or students. In addition, the organizations will be responsible for obtaining necessary permits (hereinafter referred to as "Commercial Entertainment Groups").

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A youth-based group is defined as a not-for-profit organization whose primary purpose is to support activities for youth.

“Fair Rental Charges” means the direct costs to the district, plus the amortized costs of the school facilities or grounds used for the duration of the activity authorized. Both fair direct cost and fair rental value are, for convenience, estimated and charged to users on a uniform hourly basis.

Users in any Category are to be subject to additional charges if their use causes damage to or loss of district/school-site supplies and/or equipment, special maintenance or special accommodations, or if their use requires additional district personnel or work hours to be assigned (e.g., weekend, holidays, or other days when the facility may otherwise be closed).

No groups shall be allowed to use district facilities until an Application for Use of School Facilities has been approved by the district and, if applicable, the group has agreed to pay assessed charges.

No application for Use of School Facilities permit will be used when it has been determined that approval of the use of facilities would not be in the best interest of the district. Therefore, no group providing activities for school age children shall be granted a permit to use district facilities during instructional time.

Additionally, an application for Use of School Facilities may be revoked at any time that the district believes that the permittee is not using district facilities in a responsible manner or in accordance with district policy.

Prior to the issuance of a facility use permit, the requesting organization must provide an original certificate of insurance, in the minimum amount of \$500,000.00 or \$1 million, if the intended use involves physical activities, and a separate specific endorsement which names the district as an additional insured on the organization’s liability policy. Additionally, a Hold Harmless Agreement (indemnification) must be completed and signed by a duly authorized representative of the organization and received by the district at the time the Application for Use of School Facilities is submitted to the district for approval.

Any not-for-profit or for-profit groups or organizations are not authorized to fundraise on school District facilities or grounds without prior approval from

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the Chief of Facilities, Planning and Construction, Maintenance and Operations or his or her designee.

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)

In determining direct costs to be charged for community use of each, or each type of, school facility or grounds, the Superintendent or designee shall calculate, in accordance with 5 CCR 14038, the community's proportionate share of the following costs: (Education Code 38134; 5 CCR 14038-14041)

1. 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. (5 CCR 14037)

(cf. 5148 - Child Care and Development)

(cf. 5148.2 - Before/After School Programs)

2. 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.

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)

Expending Funds Collected as Capital Direct Costs

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)

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Priority of Users

1. All school related activities shall be given priority in the use of faculties and grounds under the Civic Center Act. Pasadena Unified School District's (PUSD) priority when approving applications for facility use permits, takes into consideration both current PUSD policy and a reciprocal use agreement between PUSD and the City of Pasadena. Therefore, PUSD will continue to observe the following order of priority when considering applications for approval:
 - a. PUSD and PUSD-sponsored activities and community partners. Pasadena, Sierra Madre and Altadena school support groups, such as PTAs and Parent Support Groups or Booster Organizations.
 - b. City of Pasadena activities and City-sponsored activities or other municipalities with whom PUSD has entered into a Memorandum of Understanding.
 - c. Non-profit/tax exempt youth-based groups/organizations, with roster indicating residency of 65% within the PUSD boundaries, enrollment at PUSD of 50%.
 - d. Other youth groups/organizations.
 - e. Civic and related organizations (adult participants) public agencies, other than the City of Pasadena, the City of Sierra Madre, and the community of Altadena, public officials, governmental commissions, Pasadena, Sierra Madre and Altadena government commissions, Pasadena, Sierra Madre, and Altadena.
 - f. All charging groups as defined in Category III.

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 beverages on school premises

GOVERNMENT CODE

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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 schools*

COURT DECISIONS

Good news Club v. Milford Central School (2001) 533 U.S. 98

Lamb’s Chapel v. Center Moriches Union Free School District (1993) 508 U.S. 384

Cole v. Richardson (1972) 405 U.S. 676

Connell v. Higgenbotham (1971) 403 U.S. 207

ACLU of So. Calif. v. Board of Education of Los Angeles (1961) 55 Cal.2d 167

Ellis v. Board of Education (1945) 27 Cal.2d 322

ATTORNEY GENERAL OPINIONS

82 Ops. Cal. Atty. Gen. 90 (1999)

79 Ops. Cal. Atty. Gen. 248 (1996)

Management Resources:

CDE LEGAL ADVISORIES

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

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

WEB SITES

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

California Department of Education: <http://www.cde.ca.gov>

Policy

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Revised: 3/29/01; 2/23/10; 4/23/15

PASADENA UNIFIED SCHOOL DISTRICT

Pasadena, California