

REGULATION 1330: Use of School Facilities
Comparison Chart
Section: Community Relations

SUMMARY OF UPDATE

Summary of Update: *The regulation was updated by deleting the section regarding the use of facility fees that are now addressed in the board policy, and further defines the meaning of "veterans' organization".*

CSBA NOTE: The following administrative regulation is mandated for the management, direction, and control of school facilities, pursuant to Education Code 38133.

PARA	Section	Sub-Section	February 10, 2015 CURRENT VERSION	July 2018 REVISED VERSION	CSBA MODIFICATIONS and/or NOTES
			<u>Application for Use of Facilities</u>	No change	
1			Any persons applying for the use of any school facility or grounds on behalf of any society, group or organization shall present written authorization from the group or organization to make the application.	No change	
2			Persons or organizations applying for the use of school facilities or grounds shall submit a facilities use statement indicating that they uphold the state and federal constitutions and do not intend to use school premises to commit unlawful acts.	Persons or organizations applying for the use of school facilities or grounds shall submit a facilities use statement indicating that they uphold the state and federal constitutions and do not intend to use school premises or facilities to commit unlawful acts.	CSBA NOTE: The California Supreme Court has determined that the requirements of Education Code 38135 and 38136 are unconstitutional (ACLU v. Board of Education of City of Los Angeles). Although these provisions have not been repealed, districts are advised not to require any oath affirming that the group does not intend to take actions leading to the overthrow of the government. Other types of oaths have been held constitutionally acceptable. The California Supreme Court upheld the use of an oath that the individual or group does not intend to use school premises to commit unlawful acts (ACLU v. Board of Education), and the U.S.

					Supreme Court has upheld affirmative loyalty oaths for public employees, expressing a promise to support the federal and state constitutions (Connell v. Higgenbotham; Cole v. Richardson). The accompanying exhibit provides a sample facilities use statement. The following paragraph is optional.
			<u>Civic Center Use</u>	No change	
1			Subject to district policies and regulations, school facilities and grounds shall be available to citizens and community groups as a civic center for the following purposes:	No change	
	1		Public, literary, scientific, recreational, educational, or public agency meetings	No change	
	2		The discussion of matters of general or public interest	No change	
	3		The conduct of religious services for temporary periods, on a one-time or renewable basis, by any church or religious organization	No change	CSBA NOTE: An Attorney General Opinion (79 Ops.Cal.Atty.Gen. 248 (1996)) found unconstitutional the section of Education Code 38131 which provides that a board may grant the use of school facilities to a religious group to conduct services only when the religious group has no other suitable meeting place. Although Attorney General opinions do not carry the force of law, they are given deference by the courts in the case of legal challenge. Therefore, a district should consult legal counsel before requiring a religious organization to establish that it lacks another suitable meeting place for the conduct of its services in order to rent school facilities. In that same opinion, the Attorney General also determined that Education Code 38131 does not limit the renewability of the temporary use permit for school facilities by a religious organization. Thus, legal counsel should also

					be consulted before a district refuses to renew a temporary permit. Item #3 below is consistent with the Attorney General's interpretation of Education Code 38131.
	4		Child care programs to provide supervision and activities for children of preschool and elementary school age	No change	
	5		The administration of examinations for the selection of personnel or the instruction of precinct Board members by public agencies	No change	
	6		Supervised recreational activities including, but not limited to, sports league activities that are arranged for and supervised by entities, including religious organizations or churches, and in which youth may participate regardless of religious belief or denomination	No change	
	7		A community youth center	No change	
	8		Mass care and welfare shelters during disasters or other emergencies affecting the public health and welfare	No change	CSBA NOTE: Pursuant to Education Code 32282, procedures to allow school facilities to be used by public agencies, such as the Red Cross, for mass care and welfare shelters during an emergency must be included in the comprehensive school safety plan. See AR 0450 - Comprehensive Safety Plan.
	9		A ceremony, patriotic celebration, or related educational assembly conducted by a veterans' organization	No change	
				9 (2) A veterans' organization means the American Legion, Veterans of Foreign Wars, Disabled American Veterans, United Spanish War Veterans, Grand Army of the Republic, or other duly recognized organization of honorably discharged soldiers, sailors, or marines of the United States, or any of their territories.	

	10	Other purposes deemed appropriate by the Governing Board	No change	CSBA NOTE: Education Code 38131 allows the district to grant use of school facilities for other purposes as deemed appropriate. The district may add any other purposes approved by the Governing Board.
		<u>Restrictions</u>	No change	
1		School facilities or grounds shall not be used for any of the following activities:	No change	CSBA NOTE: In adopting rules for the management and control of school facilities, districts must be careful to ensure that they do not impose restrictions that may violate constitutionally protected rights. Generally, court decisions have held that districts may not discriminate on the basis of a group's viewpoint, and thus the use of facilities should be granted on a neutral basis. In <i>Good News Club v. Milford Central School</i> , the U.S. Supreme Court held that a district which prohibited a religious club from using school facilities after school hours for activities for which it allowed other community groups to use the school facilities discriminated against the club on the basis of the club's religious viewpoint in violation of the First Amendment to the United States Constitution. Because federal and state constitutional free speech issues may be involved when a district denies the use of school facilities to certain groups, it is strongly recommended that a district consult with legal counsel before doing so.
	1	Any use by an individual or group for the commission of any crime or any act prohibited by law	No change	
	2	Any use of which is inconsistent with the use of the school facilities for school purposes or which interferes with the regular conduct of school or school work	No change	

	3	Any use which involves the possession, consumption, or sale of alcoholic beverages or any restricted substances including tobacco	Any use which involves the possession, consumption, or sale of drugs or any restricted substances, including tobacco	
2		The district may exclude certain school facilities from non-school use for safety or security reasons.	No change	CSBA NOTE: Districts may exclude certain facilities from community use for safety or security reasons. Such facilities might include (1) offices or computer rooms containing records and confidential information and (2) science rooms and other rooms containing hazardous chemicals or equipment that cannot be used safely without special knowledge or skills. The following paragraph is optional and may be revised to specify excluded facilities.
		<u>Damage and Liability</u>	No change	
1		Groups, organizations, or persons using school facilities or grounds shall be liable for any property damages caused by the activity. The district may charge the amount necessary to repair the damages and may deny the group further use of school facilities or grounds.	No change	CSBA NOTE: Pursuant to Education Code 38134, a district is authorized to take the actions specified in the following optional paragraph when damage to school facilities or grounds occurs from use by a nonprofit group, organization, club, or association that promotes youth and school activities.
2		Any group or organization using school facilities or grounds shall be liable for any injuries resulting from its negligence during the use of district facilities or grounds. The group shall bear the cost of insuring against this risk and defending itself against claims arising from this risk.	No change	CSBA NOTE: Education Code 38134 distinguishes the liability and insurance obligations of nonprofit groups, clubs, and associations that promote youth and school activities from those of the district. The district is liable for any injuries resulting from its negligence in the ownership and maintenance of its facilities and grounds and must bear the cost of insuring against these risks and defending itself from related claims.
3		Groups or organizations shall provide the district with evidence of insurance against claims arising out of the group's own negligence.	Groups or organizations shall provide the district with evidence of insurance against claims arising out of the group's own negligence when using school facilities.	

4		As permitted, the Superintendent or designee may require a hold harmless agreement and indemnification when warranted by the type of activity or the specific facility being used.	No change	CSBA NOTE: Pursuant to Education Code 38134, groups that promote youth and school activities cannot be required to sign hold harmless and indemnification agreements agreeing to defend and indemnify the district against liability arising during the group's use of school facilities to the extent that the agreement requires the group to assume liability for the district's negligence. The statute is unclear as to whether the district can require non-youth related groups to indemnify the district from any and all injuries resulting from the use of the facilities. Districts wishing to create such an agreement should consult legal counsel. Because hold harmless agreements are only as strong as the groups' credit, districts should generally require proof of insurance in addition to such agreements. When a hold harmless and indemnification agreement appears necessary for any specific school facilities or a specific event, the district's risk manager, insurance carrier, or legal counsel should tailor it to the situation.
		Use of Facility Fees	Delete	
1		Charges may be determined from the schedule of rates. Fees shown are per hour rates. Payment of charges should be made payable to Silver Valley Unified School District prior to the date of the event.	Delete	
2		The district direct cost rate includes supplies, utilities, security, service, and salaries of those employees who provide services directly or indirectly for the use of the facilities during regular assigned working hours.	Delete	
3		Additional labor costs may be charged when the use of the facilities, with or without the	Delete	

		facility rental fee, requires district employee's presence during hours other than the employee's regularly assigned work hours. Labor charges are based on actual wages paid to the employee plus benefits for these hours.		
4		Except as otherwise provided by law, the governing board may charge an amount not to exceed:	Delete	

Created: October 12, 2021