

Best Practices for Allowing Outside Organizations to Use K-12 School Facilities

Crafting Effective Facility Use Agreements

AASBO Conference
May 2, 2024

Melissa McKie
Bishop, Colvin, Johnson & Kent, LLC
melissamckie@bishopcolvin.com
www.bishopcolvin.com





**Facility Use by Outside
Groups Varies Widely by
Community. . .**


”

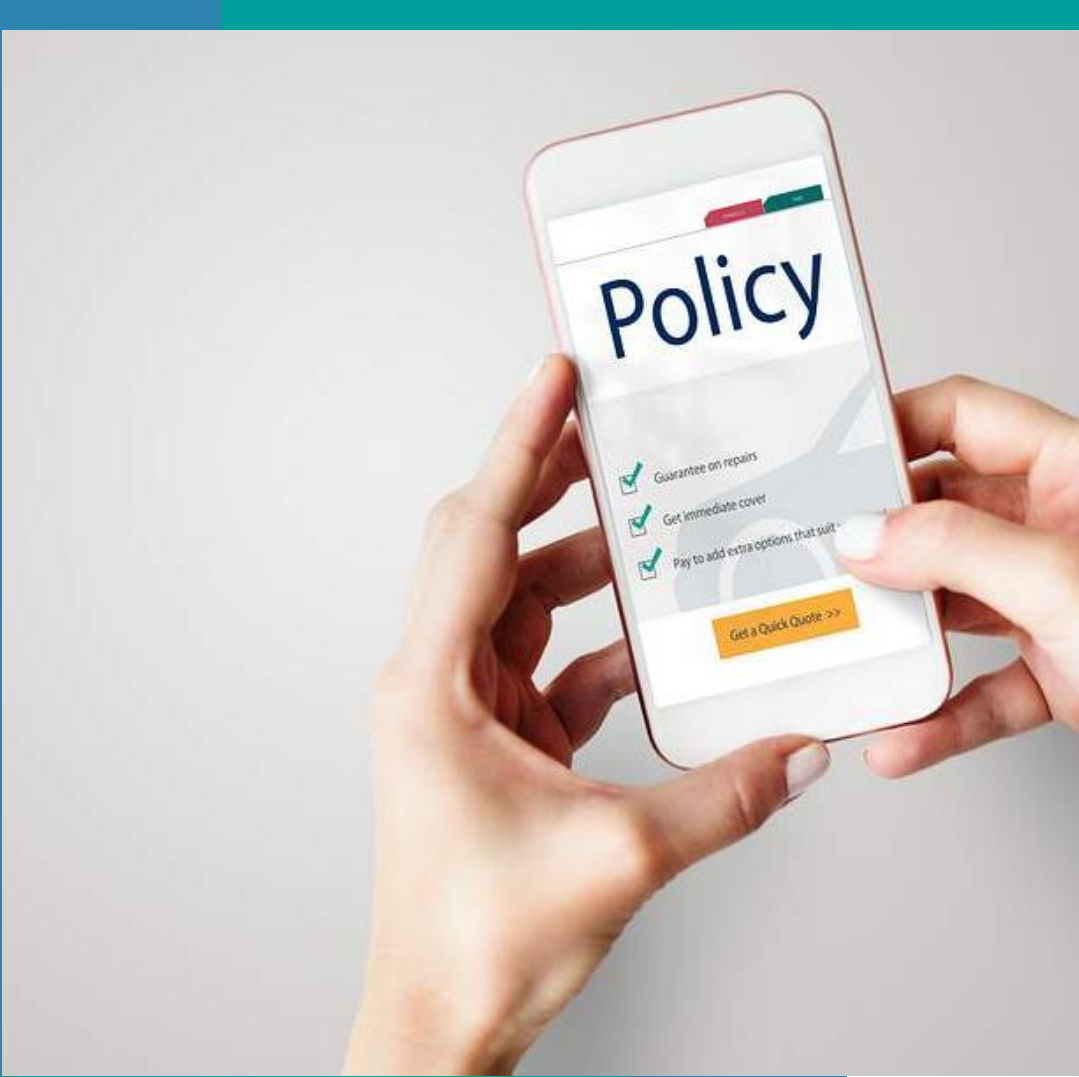




Step One:

Do you have a board policy?
What does it say?





- Remember, failure to follow board policy can lead to liability!



Sample Policy:



The following sample policy provides structure and flexibility. . . .

Sample Policy:

Use of Board Facilities

Schools and other Board owned or controlled facilities may be made available for use by sanctioned or generally recognized school support organizations if the use of the facility will not disrupt school operations or be inconsistent with the purpose and mission of the school system, and if adequate advance provision is made for security, supervision, maintenance, damage prevention, post-event clean-up, liability insurance, and other risk management measures appropriate to the proposed use.

Use of Board facilities for non-school organizations may be approved if the foregoing conditions are satisfied and a rental contract (or the equivalent thereof) that includes a reasonable fee or rental charge and other appropriate terms and conditions is approved by [*Option 1*: the Board; *Option 2*: the Superintendent; *Option 3*: the Superintendent or designee].



Step Two: Take Stock

What facilities are being used? By Who? For What Purpose? What are you charging? Do you have a written agreement?





Who approves it?

Who is collecting the
money?



”



What Should Your Standard Facility Use Agreement Cover?





**The facilities and uses will
drive the contents of the
agreement. . .**



Scope of Use:

Contractual Provisions to Consider:

- Clearly define the purpose for which the facilities are being used by the outside organization.
- Specify the exact areas and amenities within the school facilities that are permitted for use.
- Consider access

The Renter may only use the rented space for the purpose of [Purpose of Rental] and is responsible for ensuring that only authorized attendees access the Rental Space.

Beware of:



- Allowing groups to use high tech equipment.
- Groups utilizing food service areas.

These areas may require training or staffing by qualified board employees.

Duration and Schedule:

- Outline the dates and times during which the facilities will be available for use by the outside organization.
- Specify any restrictions or limitations on the frequency and duration of use, especially during school hours and holidays.

The rental period will begin on [Start Date] at [Start Time] and will end on [End Date] at [End Time]. The Renter may access the facilities no earlier than the start time and must vacate the facilities no later than the end time.

Insurance and Liability:

Contractual Provisions to Consider:

- Consider requiring the outside organization to provide proof of liability insurance covering any potential damages or injuries that may occur during their use of the facilities.
- Clearly outline the respective responsibilities of the school and the outside organization in the event of accidents or damages.

Liability Insurance: Throughout the Term the Organization, at its expense, shall provide and maintain general liability insurance coverage in the amount of not less than \$1,000,000.00 that insures the Board, and its agents, officers, and representatives, from any loss, claim or damage asserted by any person (including any member, agent, employee, contractor, representative of the Organization) arising or resulting from the Organization's use of the Facilities, its operations thereon, or the Board's grant of the License. A certificate of insurance evidencing this coverage shall be provided to and approved by the Board before usage of the Facilities may commence.

Supervision:

Supervision. The Organization, not the Board, has full responsibility to supervise all of the Organization's programs or activities on the Facilities and the participants in those activities.

Fees and Payments:

- Outline any fees or rental charges associated with the use of the facilities, including any security deposits or cancellation fees.

Fees and Payments:

Determining Costs: Considerations and Factors

- **Utilities: Electricity, Water, Heating/Cooling**
- **Custodial Services: Cleaning Before and After Use**
- **Maintenance: Wear and Tear on Facilities**
- **Staffing: Onsite Personnel Requirements**

Fees and Payments:

- Specify the terms of payment, including due dates and acceptable methods of payment.
- Charging consistent rates is important!

Maintenance and Cleaning:

- Clarify the responsibilities for maintenance, cleaning, and repair of the facilities before and after each use.

Maintenance of Facilities/Clean Up. Prior to commencement of an EVENT, BOARD shall maintain the restroom, support facilities and associated amenities at venues to the applicable school system standards. During an EVENT, the ORGANIZATION is responsible to keep those facilities at venues in clean condition. Following an EVENT, the ORGANIZATION is responsible to return the BOARD facilities at each venue used by it in reasonably clean condition, and in substantially the same condition as when tendered to them, ordinary wear and tear excepted.

Security Deposit?

The Renter is required to pay a security deposit of [\$Amount] before the start of the Rental Period. The security deposit will be returned to the Renter at the end of the Rental Period if the Rental Space is returned in the same condition as it was at the beginning of the Rental Period. If it is not, the security deposit will be utilized to pay for any damages or cleaning that is necessary to restore the facility to its same condition.

Maintenance and Cleaning:

- Determine whether the outside organization will be responsible for any additional cleaning or setup costs incurred during their use.

The Renter must return the rented space in the same condition as it was at the beginning of the rental period. Any damage to Board facilities or property that arises from the Renter's use of the Rental Space, ordinary wear and tear excepted, will be the responsibility of the Renter. Renter also agrees to reimburse the Board for the expense of its custodial staff restoring the Rental Space to its same condition if the amount is in excess of the security deposit.

Compliance with Regulations:

Contractual Provisions to Consider:

- Ensure that the outside organization agrees to comply with all applicable laws, regulations, and school policies while using the facilities.
- Specify any specific rules or regulations that must be followed, such as noise restrictions or prohibition of alcohol and tobacco.

Communication and Coordination:

- Designate a point of contact from both the school and the outside organization for communication and coordination purposes.
- Establish clear channels of communication for scheduling, emergencies, and other relevant matters.

Indemnification:

- Include provisions for indemnifying the school against any claims, losses, or damages arising from the outside organization's use of the facilities.

The Renter shall indemnify, defend and hold harmless the University, and its officials, employees, agents or representatives (collectively the “Board Representatives”) from any and all losses, expenses (including reasonable attorney fees and court costs), damages, liability or claims (collectively, “Claims”) which may be asserted against the Board(or the Board Representatives) that arise from or relate to the Renter’s use of the Rental Space or its operations thereon (including the acts of its contractors), including, but not limited to, any Claims allegedly caused by the negligence of the Board(or the Board Representatives); provided that nothing in this provision shall obligate the Renter to indemnify the Board(or the Board Representatives) from any Claim resulting from their gross negligence or willful misconduct.

Special Requirements:

Address any special requirements or accommodations needed by the outside organization, such as equipment storage.

The Board agrees that, during the Term, the Organization may place, store, or maintain the following in the _____ Room: _____ equipment, and supplies; furnishings; and other personal property of its choosing (collectively the “Organization Equipment”). The Board is under no obligation to insure, safeguard, or protect the Organization Equipment or the structure in which the _____ Room is located;

Termination Clause:

- Define the circumstances under which either party may terminate the agreement, including notice periods and any associated penalties.
- Specify the procedures for returning any keys or access cards issued to the outside organization upon termination.

Renter or Board may terminate the agreement upon **30 days** written notice. The Agreement may be otherwise cancelled by mutual agreement. If the Board agrees to allow the Renter to cancel the Agreement less than **[Number of Days]** days before the start of the rental period, the Renter will not be entitled to a refund of the security deposit.

REMINDER

- Use the correct Legal Name of Board in the Preamble and on Signature Page (i.e., “*City of Tuscaloosa Board of Education*”)
 - ❑ Individual Schools in a District (e.g. “*Central High School*”) not legal entities
 - ❑ An Acronym like “TCS” not a Legal Name
- Use Legal Name of Contractor (not just a d/b/a or Trade Name) (e.g., “*Smith Enterprises, LLC d/b/a Dave’s Flowers*”, not just “*Dave’s Flowers*”)

OTHER CONSIDERATIONS

- You have to apply these policies and procedures in an equitable manner!
- Setting your rental “standards” at an appropriate level will help ensure that only reputable and responsible people and organizations rent your property.
- You can charge no fee or a lesser fee if the organization or activity “benefits” the school system—think PTA, etc. But, be consistent!
- Some school systems have 2 fee schedules: one for “for profit” events and one for “non profits”

