

INFORMATION ITEM

August 2, 2010

To: Board of Education Members

From: Ellen E. Mauer, PhD

Subject: Policy 8:20-Community Use of Facilities

We received a request to review this policy from one of our members. I have attached the version we currently have along with the one recommended by IASB. The only differences in the two are:

- IASB recommended one added language of "non-school hours."
- IASB recommended one uses "shall" instead of "may" when referring to payment.
- IASB recommended one differentiates between school-related and government organizations vs. all other organizations.

I was also asked to attach the rental use agreement we currently use so that is here.

Additionally, there was a request to find out how SEDOL arrives at its rental fee rate. I contacted Carol DuClos at SEDOL and found out how they came up with their fee structure. They call it a housing credit. 10 years ago, a committee of superintendents and business managers got together and developed a price structure that they felt would give incentive to districts to house SEDOL programs. They came up with \$40,000 for LASSO and TAB classes and \$12,500 for all other classes. (Millburn got \$118,500 last year total in credits minus the fee for the number of students we put into SEDOL rooms.) The idea with the fee is that it is supposed to cover the district costs for mainstreaming into related arts classes, supplies, lunchroom supervision, assemblies, administrative time, etc. Those classrooms are to be included just as any other classroom is included. The rationale for the \$40,000 price on the two types of classrooms (LASSO and TAB) is that the districts could take 2 of these rooms and use the offset dollars to hire an assistant principal since so much time was being taken administratively for these kinds of rooms. The housing fee was never meant to be comparable to renting space. They are planning to reconvene the committee again within the next year or two.

Let me know how you would like to proceed with this discussion.



Application for Facilities Use

MILLBURN C. C. SCHOOL DISTRICT 24 • www.millburn24.net

- ☐ Millburn Central • 18550 Millburn Road • Wadsworth, IL 60083 • PH 847-356-8331 • FAX 847- 356-9722
- ☐ Millburn West • 640 Freedom Way • Lindenhurst, IL 60046 • PH 847-245-1600 • FAX 847-265-8198

FACILITIES CHARGES

District 24 is charging rental fees in an attempt to cover the costs incurred for overtime, custodial, supplies, and utilities as approved by BOE, 11/23/09.

Category:	Rental Charge	Custodial Fee
District Sponsored, PTO and Foundation	Waived	Waived
Charitable and Non-Profit (requires tax-exempt status)	\$5 per classroom \$25 per gym or cafeteria	\$35 per hour*
Colleges and Universities	\$50 per hour	\$35 per hour*
Commercial	Whichever is greater: 8.5% of gross revenue realized through location OR \$5 per classroom/\$25 per gym or cafeteria	\$35 per hour*
Field Use	\$10 per event**	

*This additional fee will be charged only at times we have to schedule a custodian during non-working hours regardless of the number of rooms rented by a group.

**Lindenhurst Park District is exempt.



Contact Person:	Email
Mailing Address, City, State, Zip	Phone

GROUP INFORMATION

Name of Requesting Group: (Scout groups must include troop/den number and grade level)
Check one: <input type="checkbox"/> District Organization <input type="checkbox"/> Colleges and Universities <input type="checkbox"/> Commercial <input type="checkbox"/> Non-Profit
Purpose and Nature of Activity (briefly)
Anticipated Number of Participants:
Activity will be open for <input type="checkbox"/> General Public <input type="checkbox"/> Group Members Only <input type="checkbox"/> Restricted to:

DATE and TIME REQUESTED

Check one: <input type="checkbox"/> Single Meeting Date <input type="checkbox"/> Series of Meetings	
Date(s) Requested:	Day of Week:
Start time of activity: AM or PM	End time of activity: AM or PM

FACILITIES REQUESTED

<input type="checkbox"/> East Gym	<input type="checkbox"/> Classroom
<input type="checkbox"/> West Gym	<input type="checkbox"/> Soccer Field <input type="checkbox"/> North <input type="checkbox"/> Center <input type="checkbox"/> South
<input type="checkbox"/> Cafeteria	<input type="checkbox"/> Other

OTHER NEEDS

<input type="checkbox"/> Audio/Visual	<input type="checkbox"/> Sound System
<input type="checkbox"/> Tables	<input type="checkbox"/> Bleachers
<input type="checkbox"/> Chairs	<input type="checkbox"/> Other

➡ NOTE: A Certification of Liability Insurance and check for the full amount according to the Facilities Charge chart above must be submitted with this application. Checks are made payable to "Millburn District 24." Dates will only be approved when school is in session.

The undersigned, who is to be in charge of the activities, is 21 years of age or older. He/She agrees to be responsible to the Board of Education for the use and care of the school property. He/She further agrees to be personally responsible for any damage to property other than ordinary wear and tear due to such facilities use.

Signature of Responsible Person _____ Date _____

For Office Use Only

Facilities Use ☐ APPROVED ☐ DENIED Other Needs ☐ APPROVED ☐ DENIED Principal Approval _____

Room Assignment

Dates that are NOT included with this application

ADOPTED: May 20, 2002

Community Relations

Community Use of School Facilities ¹

School facilities are available to community organizations during non-school hours when such use does not: (1) interfere with any school function or the safety of students or employees, or (2) affect the property or liability of the School District. The use of school facilities for school purposes has precedence over all other uses. Persons on school premises must abide by the District's conduct rules at all times. ²

Student groups and school-related organizations and local governments are granted the use of school facilities at no cost. ³ Other organizations granted use of facilities shall pay fees and costs.

The Superintendent shall develop procedures to manage community use of school facilities. Use of school facilities requires the Superintendent's approval and is subject to the procedures. ⁴

The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

¹ State or federal law controls this policy's content. If a board wants to allow community organizations to use school facilities, it must adopt a policy (105 ILCS 5/10-20.40, added by P.A. 95-308). The policy must "prohibit such use if it interferes with any school functions or the safety of students or school personnel or affects the property or liability of the school district." A board should discuss the implications of any access to school facilities policy with its attorney.

This policy concerns an area that is frequently litigated because of its many complex legal and practical issues. The Constitution's Free Speech and Equal Protection Clauses, as well as the Equal Access Act, are triggered. As a general rule, school officials can avoid constitutional problems and still open facilities to community groups by treating requests to use school facilities according to uniform rules that do not discriminate against a group on the basis of its viewpoint.

Of course, a board may avoid constitutional controversy over community use of its facilities by refusing to permit such use by all non-school groups (thereby creating a closed forum). A board may also avoid triggering the constitutional clauses and the Equal Access Act by allowing all non-school groups to use of its facilities (thereby creating an open forum). If the board creates an open forum, it may still impose reasonable time, place, and manner restrictions on the use as long as the restrictions are the same for all groups. However, practically speaking, it is difficult for a board to either completely close its facilities to non-school groups or to open its facilities to all non-school groups. Most boards decide to create a limited open forum.

This policy creates a limited open public forum by allowing public use of school facilities provided the use is consistent with the public interest. See *Widmar v. Vincent*, 454 U.S. 263 (1981). A public school district may not discriminate on the basis of a group's purpose, message, or goal. Thus, any restrictions on the use by non-school groups must not discriminate against speech on the basis of viewpoint. *Lamb's Chapel v. Center Moriches Union Free School District*, 113 S.Ct. 2141 (1993); *Good News Club v. Milford Central School*, 121 S.Ct. 2093 (2001). A board must show neutrality to all viewpoints.

A board runs afoul of showing viewpoint neutrality if it prohibits single sex youth organizations, even those that discriminate against homosexuals, to use school facilities. Note the U.S. Supreme Court refused to apply the N.J.'s public accommodation law to the Boy Scouts because forcing the Scouts to accept a homosexual as a member would violate the Scout's freedom of expressive association. *Boy Scouts of America v. Dale*, 120 S.Ct. 2446 (2000).

This constitutional jurisprudence was codified as §9525 of the No Child Left Behind Act of 2001 (20 U.S.C. §7905). Schools are prohibited from denying equal access to school facilities to the Boy Scouts or any other youth group "for reasons based on membership or leadership criteria or oath of allegiance to God and country."

See sample policy 7:330, *Student Use of Buildings-Equal Access*, for a discussion of the Equal Access Act, 20 U.S.C. §4071 *et seq.*

² See policy 8:30, *Visitors to and Conduct on School Property*.

³ The decisions concerning facility-use fees are at the local board's discretion. However, the general rule applies: school officials can avoid constitutional problems by treating requests to use school facilities according to uniform rules that do not discriminate against a group on the basis of its viewpoint.

LEGAL REF.: 20 U.S.C. §7905.
10 ILCS 5/19-2.2.
105 ILCS 5/10-20.40, 5/10-22.10, and 5/29-3.5.
Good News Club v. Milford Central School, 121 S.Ct. 2093 (2001).
Lamb's Chapel v. Center Moriches Union Free School District, 113 S.Ct. 2141 (1993).
Rosenberger v. Rector and Visitors of Univ. of Va., 515 U.S. 819 (1995).

CROSS REF.: 7:330 (Student Use of Building - Equal Access), 8:25 (Advertising and Distributing Materials in Schools Provided by Non-School Related Entities), 8:30 (Visitors to and Conduct on School Property)

ADMIN. PROC.: 8:20-AP (Community Use of School Facilities)

⁴ However, at the request of election officers, any publicly owned building must be made available for use as a polling place (10 ILCS 5/19-2.2). Election officers must place markers 100 horizontal feet from a polling room's voter entrance and, if the 100 feet ends within the building's interior, the markers must be placed outside of the building at each entrance used by voters. The area within where the markers are placed is a campaign free zone where electioneering is prohibited. The area on polling place property beyond the campaign free zone is a public forum for the time that the polls are open on an election day and may be used for campaigning and to place temporary signs (Id.). A child sex offender is permitted to vote early or by absentee ballot when his or her polling place is a school (10 ILCS 5/11-4.1, as amended by P.A. 95- 440).