

FACILITY JOINT USE-AGREEMENT ISSUES

Maintaining your agreement:

Addressing the following issues is a form of preventive maintenance that will keep some common problems from arising.

1) School regulations and procedures:

- School regulations are not always included in the agreement. You can have a clause in the agreement referring to regulations.
- One drawback with incorporating all school regulations in an agreement is that the school determines regulations and can change or alter the agreement without commission's consent.
- An alternative is to have a list of regulations (not school regulations) determined by both parties and referred to in agreement. This approach provides some security regarding the terms of access as there must be mutual consent for any changes, additions or deletions made to agreement.
- School regulations commonly dealt with include smoking, the use of alcohol, fire procedures, clean-up, temperature of premises, shoe apparel and parking.
- A clause may also be included outlining the refund of any monies advanced for school rental, especially if programs are cancelled.
- The agreement should also specify criteria for a damage deposit system if there is one, i.e. deposit will be withheld or refunded.
- Failure to comply with school regulations usually results in denial of access to school facilities.
- Reviewing regulations and addressing them in an agreement assists parties to ensure continued access to school and to maintain good relations.

2) Costs/billings/collections:

- An accurate accounting system will ensure sufficient payments are made to school board on a regular basis.
- Record keeping enables the commission to know what charges to apply to user groups.
- Accurate records are also important as there is an annual audit requirement for each recreation commission.

3) Conflict resolution:

- Deal with problems ahead of time either by foreseeing potential problems and including a clause in agreement which addresses the situation or by establishing a dispute resolution framework.

Example of dispute resolution process:

Level 1: Principal and recreation director/chairperson

Level 2: Recreation commission

Level 3: Joint planning committee

Level 4: School board and councils

Level 5: Arbitration

- The main principle of this process is to allow those initially involved in the dispute to first attempt to resolve it themselves.
- If the dispute continues, then by mutual agreement of both parties, dispute moves to first level. If not resolved at this level, dispute is moved to second level and so on down to final level.
- Agreements can be modified to exclude any of the above levels.

4) Evaluating your agreement:

- Include a clause in the agreement that allows for updating which will ensure the agreement is not filed away or forgotten and that it continues to serve your best interests.
- The clause can state how often the parties meet and who should attend the meeting.
- Two common changes to agreements have been the upward revision of insurance coverage limits and adjustment of fees.

5) Amendment procedure:

- This procedure is necessary to facilitate changes as a result of updating, conflict resolution, events that have made the present agreement inappropriate.
- Amendment procedure clause establishes a framework for dealing with change and avoiding being caught in an unforgiving agreement.
- Most clauses state that if a change is to be made, it should be developed in same manner that agreement was established.
- Change must be by mutual agreement.
- Amendments should refer to the original agreement if they comprise a stand-alone document or can be inserted into a newly drafted agreement.
- Appropriate authorities from each side must sign agreement.