

## USE OF SCHOOL FACILITIES

The Governing Board shall make school facilities and grounds under its jurisdiction available as a civic center to citizens and community groups for the following purposes and under the terms and conditions set by the Board:

1. Public, literary, scientific, recreational, educational, or public agency meetings
2. The discussion of matters of general or public interest
3. The conduct of religious services for temporary periods by any church or religious organization which has no suitable meeting place for the conduct of services. The Board must charge the church or religious organization a fee at least equal to the District's direct costs. Education Code 38131 (b) (3) provides that religious groups may use school facilities on a temporary basis. It shall be the policy of the Board that "temporary use" for this purpose shall be defined as not to exceed one year. Church or religious organizations must apply for extension of facility usage at the expiration of the year.
4. Childcare or day care programs for children of preschool and elementary school age provided by other governmental entities or non-profit agencies.
5. Examinations for personnel selection or the instruction of precinct board members, by public agencies.
6. Supervised recreational activities.
7. Mass care and welfare shelters implemented by governmental or public agencies (such as the American Red Cross) during disasters or other emergencies affecting the public health and welfare; and the provision of any services deemed necessary by the Board to meet the needs of the community.
8. Other purposes deemed appropriate by the Board.

The Board directs the Superintendent to develop and submit to the Board for action rules and regulations which shall include but not to be limited to:

1. Preserving order in school buildings and school grounds.
2. Protecting facilities from damage.
3. Ensuring that use of facilities under this policy is not inconsistent with and does not interfere with the instructional program.

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A copy of the Board policy and regulations governing use of school facilities shall be posted on the Civic Permits website and are available upon request to persons or groups requesting use.

The Governing Board shall not grant facilities for any of the following activities:

1. Any use by an individual, society, group or organization for the commission of any act prohibited by law, or which is inconsistent with their use for school purposes, or which interferes with the regular conduct of school or schoolwork.
2. Fund raising campaigns except as permitted by Governing Board policy or special action of the Governing Board.
3. Activities which are discriminatory in legal sense.
4. Any activities which involve the possession, consumption or sale of alcoholic beverages or any restricted substance on school property. To include tobacco products including electronic cigarettes, electronic hookahs, and other vapor-emitting devices, with or without nicotine content, that mimic the use of tobacco products.
5. Private social functions or for any purpose which is prohibited by law.
6. Ongoing usage by private profit organizations or one-time usage by private profit organization when other suitable facilities are available.

Persons or organizations applying for facility rentals shall be required by the Board to submit a permit request online via Civic Permits. The online permit agreement assures the Board that persons or organizations applying for the use of school facilities have read and agreed to the rules and regulations for public use of school facilities posted on the Civic Permits website. Buildings will be opened (only when given evidence of approved permit), attended, and closed by an authorized employee of the District.

Only one designee per organization is the agent authorized to submit a permit on behalf of the organization and is responsible for all fees associated. Each permit is specific to a single school site, and permits must contain no more than 30 calendar days.

The Board or Board designee may require any additional information and/or documentation to be disclosed and submitted from the persons/organization applying to rent facilities or in current use of facilities.

High school drama facilities and libraries shall not be available for ongoing usage by any organization. Short-term usage for single events may be approved subject to availability.

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Fee Definitions

1. “Direct costs” to be charged for community use of each, or each type of, school facility or grounds shall be calculated in accordance with 5 CCR 14038 and may reflect the community's proportionate share of the following costs: (Education Code 38134; 5 CCR 14038-14041):
  - a. 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; and
  - b. Operational direct costs calculated in accordance with 5 CCR 14040, including estimated costs of supplies, utilities, janitorial services, other services performed by 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.
  - c. 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)
2. “Fair Rental Value” is defined by Education Code section 38134(g)(2) as, direct costs plus the amortized costs of the school facilities used for the duration of the activity authorized.
3. “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)

Class I: Education of District Students

- 1A. The Board shall not charge any fees to extra-curricular school events, school fundraisers, and District parent information meetings where no money is charged and organizations charging admission, the net profit wherein is forwarded to the District or a District affiliated organization (i.e., Board of Trustees, booster clubs, parent/community clubs, student body) for the direct benefit of students of the District shall have all fees waived during normal hours when custodian is on duty, with the exception of Class 1B as noted. In the circumstance Class 1A does not forward the net profit back to the District or District affiliated organization, class 1A will be reclassified for the specific event.
- 1B. Civic Center and charitable organizations in direct support of District students where no money is charged (Camp Fire USA, Girls Scouts, Boy Scouts, YMCA) will be responsible for utility, processing, and custodial outside of normal custodial hours fees will apply.

High school teams extended season through an outside agency.

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Outside sports agency for MUSD high school students offered no more than one time per year per sport/team and approved by the site-specific Athletic Director and Principal. Participants are limited to current MUSD 9-12 grade students at any high school and must be CIF compliant- proof of outside agency status and certificate of insurance with additional endorsement must be provided on the Civic Permits website. Organization must provide a roster of participants meeting a minimum requirement of 90% associating high school students.

These organizations will pay for the District-assigned lighting system technician, sound system technician and custodian at the appropriate rate, if those and any other additional services utilized. Night usage also requires payment for use of lights.

Modified Class II: Indirect Support of District Students

Civic Center and charitable youth organizations charging either registrations or admissions, the net proceeds of which are not forwarded to the District or a District affiliated organization for the direct benefit of students of the District, will be charged Modified Class II fees.

Class II: Nonprofit Use of Facilities

Nonprofit organizations not charging admission fees and activities which are not directly for the benefit of youth will be charged Direct Costs.

Religious groups using school facilities shall be charged a fee at least equal to the District's direct costs.

Class III: Fair Rental Value

Fair rental value fees will be charged for profit organizations/groups or not for profit organizations scheduling activities in which a participation admission, or entry fee is charged.

As per Education Code 38134 (e), entertainment, functions or meetings where admission fees are charged or contributions are solicited and where the net receipts are not expended for the welfare of the pupils of the District, or for charitable purposes, a charge shall be levied for the use of school facilities or grounds which shall be equal to fair rental value.

Fair rental value shall be reduced if 50% or more of the proceeds are specifically designated to benefit MUSD students. The reduction of the fair rental value charge shall be equal to the amount contributed to the benefit of District students and deposited with the District.

Use of School Facility Polling

The Board may authorize the use of school buildings as polling places on any election day, and may also authorize the use of school buildings, without cost, for the storage of voting machines and other vote-tabulating devices. However, if a city or county elections official specifically requests the use of a school building as a polling place, the Board shall allow its use for such purpose. If school will be in session, the Superintendent or designee shall identify to elections officials the specific areas of the school buildings not occupied by school activities that will be allowed for use as polling places. (Elections Code 12283)

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When a school is used as a polling place, the Superintendent or designee shall provide the elections official a site with an adequate amount of space that will allow the precinct board to perform its duties in a manner that will not impede, interfere, or interrupt the normal process of voting and shall make a telephone line for Internet access available for use by local elections officials if so requested. He/she shall make a reasonable effort to ensure that the site is accessible to persons with disabilities. (Elections Code 12283)

The Superintendent or designee shall establish procedures to ensure student safety and minimize disruptions whenever school is in session while the facilities are being used as a polling place.

**Damage to School Property**

Groups or persons using school facilities under the provisions of this policy shall be liable for any damages to property caused by the activity. The Board shall charge the amount necessary to repair any damages. Further use of school facilities may be denied the responsible party.

**HOLD HARMLESS AGREEMENT**

The groups/persons/organization and its members shall be held responsible for any and all loss, accident, neglect, injury or damage to person, life or property which may be the result of, or may be caused by the organization's occupancy of the facilities or premises, and for which the District might be held liable. The organization shall protect and indemnify Manteca Unified School District, its Governing Board, its Officers, its agents, its employees and its volunteers and save them harmless in every way from all suits or actions at law for damage or injury to persons, life or property that may arise or be occasioned in any way because of the occupancy of the facilities or premises, regardless of responsibility or negligence. The applicant agrees to furnish such liability or other insurance for the protection of the public and the District as the District may require.

The facility user must give written notice to the District within eight hours of any incident in which emergency responders were required to respond to life threatening or loss of limb incidents or where a person's safety was severely compromised. Notice must be communicated to the Community Outreach and Innovative Programs Department at [facilityuse@musd.net](mailto:facilityuse@musd.net), who will then notify the appropriate MUSD departments including the school site administrator of the incident.

**Fees to be Charged Organizations and Activities under the Civic Center Act**

The Superintendent is directed to develop a schedule of fees and/or rental charges based on Education Code 38134 of the Civic Center Act: 38130, et. seq.

**Granting of Approval**

The Superintendent or the Superintendent's designee is authorized to encourage, approve, and arrange for scheduling the use of school facilities by applicants satisfying the above purposes and limitations.

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The Board shall require that all users of school facilities comply with policies of this Board and the rules and regulations of this District.

Each user shall present evidence of current, valid liability insurance in the amount of \$1,000,000 combined single limit per occurrence and \$2,000,000 aggregate is required. Manteca Unified School District, its Governing Board, its Officers, its Agents, and its Employees and its Volunteers must be named as an Additional Insured to the policy. The Board shall require that an Additional Insured Endorsement (Form No. CG 2010 or its direct equivalent) must accompany the Certificate of Insurance. The Board shall require a 30-day written notice of cancellation.

The Board shall require prior approval by the Superintendent of Manteca Unified School District or the Superintendent's designee for any group utilizing District facilities promoting commercial or any type of advertising.

Use of school equipment, including, but not limited to lighting and sound systems, in conjunction with the use of school facilities, must be specifically requested in the permit agreement for single time use only and may be granted by the procedure by which permission to use facilities is granted in accordance with all applicable provisions.

The Administration shall prepare when necessary a schedule of fees for the use of school facilities. Fee adjustments shall include, but are not limited to, such factors as cost of living adjustment (COLA), employee salary and benefits settlements, economic anomalies, trends, forecasts, fair rental values in the areas, etc.

The Superintendent shall develop procedures for the granting of permission to use school facilities and shall disseminate rules and regulations for such use. The Superintendent shall cause such rules and regulations to be distributed to each user of school facilities and monitor such use to a degree sufficient to ensure that it is in conformity with those rules. Regulations for the use of school facilities shall include a schedule of fees and a procedure for the proper accounting and allocation of such receipts and assurance that responsible personnel will always be in a supervisory position.

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## 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 beverage on school premises

**GOVERNMENT CODE**

- 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 school facilities

**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 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:

**CSBA PUBLICATIONS**

- 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>

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