

# NPLAN Joint Use Agreement Resources

Many communities lack safe, adequate places for children and their families to exercise and play. Schools might have a variety of recreational facilities—gymnasiums, playgrounds, fields, courts, tracks—but many districts close their property to the public after school hours because of concerns about costs, vandalism, security, maintenance, and liability in the event of injury.

Most states currently have laws that encourage or even require schools to open their facilities to the community for recreation or other civic uses. Nonetheless, school officials may be reluctant to do so out of concern about the expense in times of increasingly tight budgets.

The good news is that city, county, and town governments can partner with school districts through a *joint use agreement* to address these concerns. A joint use agreement is a formal agreement between two separate government entities—often a school and a city or county—setting forth the terms and conditions for shared use of public property or facilities.

To download the following resources from NPLAN on joint use agreement, visit [www.nplanonline.org](http://www.nplanonline.org).

## » What Is a Joint Use Agreement? A Fact Sheet for Parents, Students and Community Members

A fact sheet explaining the purpose and benefits of joint use agreements

## » Checklist for Developing a Joint Use Agreement

A step-by-step checklist for school and city personnel to direct the development of a joint use agreement

## » Four Model Joint Use Agreements

1. Opening Outdoor School Facilities for Use During Non-School Hours
2. Opening Indoor and Outdoor School Facilities for Use During Non-School Hours
3. Opening School Facilities for Use During Non-School Hours and Authorizing Third Parties (Nonprofits) to Operate Programs
4. Joint Use of District and City Recreation Facilities (allowing community use of school facilities and school district use of city facilities)

# More NPLAN Joint Use Agreement Resources: Legal Research

## » Fifty-State Chart of Laws Allowing Community Use of Schools

» **Fifty-State Analysis of the Laws Governing Liability** for after-hours recreational use of school facilities. Written by Professor Tom Baker, Professor of Law at the University of Pennsylvania Law School and one of the nation's preeminent scholars of tort and insurance law, the analysis contains two parts:

### **Part One: Overview Memo**

Sets the analytical framework for assessing a school's liability risks. It covers:

- Basic elements of tort liability
- Special legal rules that may limit public schools' legal obligations
- Statutory limits on the damages that may be awarded
- Potential tools for shifting liability risks (liability waivers and providing access through third parties)

### **Part Two: 50 State Memos**

Analyzes each state's legal framework governing liability for after-hours recreational use of school property, addressing:

- The elements of tort liability
- Limits on a school's legal obligations, including sovereign and governmental immunity, limited legal duties due to recreational use statutes, and historical distinctions among entrants on land
- Requirements to indemnify school employees
- Defenses to liability, including comparative negligence and assumption of risk
- Limitations on damages
- Risk management strategies, including liability waivers, or providing access through third parties

## Legal Research Findings:

- All 50 states have some *governmental immunity*—protection for government entities (including school districts) from legal responsibility for injuries occurring on government property
- Some states have *recreational users* statutes—additional protection for landowners (including school districts) to encourage them to open their property for recreation use
- In no state are liability rules for after-school use of school property more onerous than the rules that apply during the school day
- In many states, the liability rules for after-school use of property are more favorable than the rules that apply during the school day

*Support for this document was provided by a grant from the Robert Wood Johnson Foundation.*

*The National Policy & Legal Analysis Network to Prevent Childhood Obesity (NPLAN) is a project of Public Health Law & Policy (PHLP). PHLP is a nonprofit organization that provides legal information on matters relating to public health. The legal information provided in this document does not constitute legal advice or legal representation. For legal advice, readers should consult a lawyer in their state.*