

**USE OF ROP FACILITIES**

The management, direction and control of school facilities and grounds is vested in the Commission which may grant the use of school facilities and grounds as a civic center upon the terms and conditions set forth in this policy and any accompanying administrative regulations. The Commission believes that school facilities and grounds are a vital community resource which should be used to foster community involvement and development. Therefore, the Commission authorizes the use of school facilities and grounds by the community for purposes specified in the civic center act, to the extent that such use does not interfere with school activities or other school-related uses. Baldy View ROP may allow the use of its facilities and grounds in accordance with other provisions of law as well. The Commission may delegate to the superintendent, or his or her designee, responsibilities relating to the management, direction and control of the ROP's facilities and grounds. Baldy View ROP retains sole discretion to determine which of its facilities and grounds shall be made available for use.

*Priority of Use*

Applications for use of school facilities and grounds shall be given preference in the following order:

1. School-related activities (e.g. educational programs or activities related to the instructional and educational programs of the ROP, in-school or school-related uses such as clubs, class events, etc.).
2. Contracted uses (e.g. license agreements and leases pursuant to the Education Code).
3. School and ROP support groups (e.g. PTA, PTO, foundations or booster clubs, etc.).
4. Community organizations whose primary purpose is to serve youth or to improve the general welfare of the community and when no admission is charged (e.g. boy scouts, girl scouts, YMCA, YWCA, etc.).
5. Public agencies and public affairs groups; use by civic, nonprofit organizations and service groups.
6. Community recreational and cultural groups (nonprofit).
7. Private, nonschool-connected classes and educational events.
8. Profit-making or commercial events.

**USE OF ROP FACILITIES** (continued)

As necessary to ensure efficient use of school facilities and grounds, the superintendent or designee may, with the Commission's approval, enter into an agreement for the joint use of any school facilities or grounds. The Commission shall approve any such agreement only if it determines that it is in the best interest of the ROP and the community.

For the effective management and control of school facilities and grounds, the superintendent or designee shall maintain procedures and regulations that (Education Code § 38133):

1. Aid, encourage, and assist groups desiring to use school facilities for approved activities;
2. Preserve order in school buildings and on school grounds and protect school facilities, designating a person to supervise this task, if necessary; and/or
3. Ensure that the use of school facilities or grounds is not inconsistent with their use for school purposes and does not interfere with the regular conduct of school work.

**FEES**

Fees shall be set forth in a schedule of use charges established by the Commission, which shall include the hourly fee for each specific facility and grounds or type of facility or grounds.

*FREE USE*

The Commission shall grant the use of school facilities or grounds without charge to school-related organizations whose activities are directly related to or for the benefit of ROP schools. The ROP retains all rights to designate or specify free-use groups in its sole discretion, consistent with the Civic Center Act, California Education Code section 38130 *et seq.*, and any other applicable law. Should any of the above free-use groups prefer to use school facilities or grounds at a time when custodial services are not normally available (for example, on a Saturday, Sunday, or holiday or if special facilities or services are required), the ROP will charge a fee equal to the direct cost of those services.

*DIRECT COSTS*

Pursuant to Education Code section 38134, uses other than those specified for free use or fair rental value shall be charged a fee equal to the direct costs to the ROP.

In determining direct costs to be charged for community use of school facilities or grounds, "direct costs" shall include a proportionate share of the estimated costs of the following (Education Code § 38134(g) and CCR § 14037):

**USE OF ROP FACILITIES** (continued)

1. Supplies, utilities, janitorial services, services of ROP employees, and/or contracted workers and salaries and benefits paid to ROP employees directly associated with the administration of the Civic Center Act to operate and maintain the school facilities or grounds (“operational direct costs”).
2. Maintenance, repair, restoration, and refurbishment of the school facilities or grounds (“capital direct costs”). For purposes of estimating capital direct costs, “school facilities” shall be limited to nonclassroom space but may apply to specialty teaching spaces including but not limited to, dance studios, music practice or performance spaces and theaters.

However, for classroom-based programs that operate after school hours, including, but not limited to, after-school programs, tutoring programs, or child care programs, or organizations retained by the ROP to provide instruction or instructional activities to pupils during school hours, direct costs to be charged shall not include capital direct costs. (Education Code section 38134(g).) A program is defined as classroom-based if participants spend at least fifty percent (50%) of operational hours in a classroom.

*FAIR RENTAL VALUE*

Groups shall be charged fair rental value when using school facilities or grounds for entertainment or meetings where admission is charged or contributions solicited and net receipts are not to be expended for charitable purposes or for the welfare of the ROP's students. (Education Code section 38134)

Fair rental value means the direct costs to the ROP plus the amortized costs of the school facilities or grounds used for the duration of the activity authorized.

This policy supersedes any prior policies adopted or approved by the ROP pursuant to the Civic Center Act.

**USE OF ROP FACILITIES (continued)**

*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*

MILITARY AND VETERANS CODE

1800 *Definitions*

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:*

CALIFORNIA DEPARTMENT OF EDUCATION LEGAL ADVISORIES

1101.89 *School District Liability and "Hold Harmless" Agreements, LO: 4-89*

WEB SITES

CSBA: <http://www.csba.org>

California Department of Education: <http://www.cde.ca.gov>