PUBLIC HEALTH POLICY CHANGE

PROMOTING RECREATIONAL USE OF SCHOOL PROPERTY DURING NON-SCHOOL HOURS

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Public Health Policy Change Webinar Series

- Providing substantive public health policy knowledge, competencies & research in an interactive format
- Covering public health policy topics surrounding Tobacco, Obesity, School and Worksite Wellness, and more
- Two Wednesdays a month from 12:00 p.m. to 1:30 p.m. Central Time
- Visit [http://publichealthlawcenter.org/](http://publichealthlawcenter.org/) for more information
Introductions

Debbie Hornor
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Introductions

Natasha Frost
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Introductions

Dr. John O. Spengler
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Introductions

Carter Headrick,
Director of State and Local Obesity Policy Initiatives, American Heart Association
Promoting Recreational Use of School Property During Non-school Hours

Webinar Objectives

• Outline the importance of community use of school property

• Discuss concerns behind community use of school facilities and liability

• Give the legal basics on liability

• Address the key concepts of the AHA School Recreational Use Guidance
Our 2020 Impact Goal

“By 2020, to improve the cardiovascular health of all Americans by 20% while reducing deaths from cardiovascular diseases and stroke by 20%.”
American Heart Association

- Founded in 1924 by Drs. Lewis A. Connor and Robert H. Halsey of New York; Paul D. White of Boston; Joseph Sailor of Philadelphia; Robert B. Preble of Chicago and Hugh D. McCulloch of St. Louis.

- Since 1949, the AHA has spent more than $3.3 billion on research to increase our knowledge about cardiovascular diseases and stroke.

- The AHA currently funds about 2,500 scientists around the United States.

- The AHA is second only to the federal government in funding cardiovascular and stroke research.
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Our research programs have contributed to many important scientific advances, including the first artificial heart valve, techniques and standards for CPR, implantable pacemakers, treatment for infant respiratory distress syndrome, cholesterol inhibitors, microsurgery.

The AHA has funded the winners of 11 Nobel Prizes.

Early 1980’s – Focused efforts to translate the science of cardiovascular disease and stroke into meaningful public policy.
American Heart Association

Planning and Stakeholder Development
(Defining the Problem)

Policy Analysis
(Identify Solutions)

Legislative Campaign Implementation

Regulatory Campaign Implementation

Policy Implementation

Evaluation

- An issue is identified as an Association-wide priority where policy and systems change is needed to advance the priority.
- Advocacy staff convene cross-functional internal teams to develop strategic plan to address policy. Stakeholders group of internal and external experts/partners may be convened as well for input and guidance.
- Public policy opportunities and barriers are identified and legislative and regulatory options are explored.

- Policy analysis is led by state advocacy staff and could include analysis of the following:
  - Current statutory and regulatory law.
  - Political and economic feasibility of solution.
  - Potential public policy solutions that could address the problem.
- Policy solution chosen and identified as a state advocacy priority by State Advocacy Committee.
- Decision is made to pursue legislative or regulatory route.
- Decision is made on outcome measures for subsequent evaluation.

- Either through this proactive process or in reaction to legislation that is introduced, state advocacy staff take the lead developing strategic campaign plans to advance public policy.
- Utilizing a cross-functional team for both planning and implementation (internal and external partners as appropriate to the issue), legislation is shepherded and passed.
- If enabling legislation, policy opportunities next turn to the regulatory realm.

- If regulatory action is needed, state advocacy staff develop strategic regulatory campaign plans to advance our regulatory priorities.
- Utilizing a cross-functional team for both planning and implementation, advocacy staff work closely with internal and external partners to monitor the regulatory advocacy process.
- Advocacy staff take the lead on lobbying tactics as well as providing expert advice and guidance.

- Once legislation and/or regulation is passed, advocacy staff monitor and influence the development of the program so that it is aligned with AHA guidelines and policies.
- Advocacy staff take the lead on development of evaluation plan related to agreed upon outcome measures.

- Evaluation may be completed using internal or external resources and partners.
- Outcomes are evaluated and reported.
Advocacy Nutrition Opportunities
- Menu labeling in restaurants
- Nutrition standards in schools (competitive foods and school meals)
- Procurement standards for foods purchased by employers and government agencies
- Trans fat bans in restaurants and schools
- Farm-to-school programs, community/school gardens
- Local school wellness policies
Advocacy Physical Activity Opportunities

- **PE in Schools** – Frequency and Quality Standards
- Safe Routes to Schools
- Shared use agreements that allow community groups to use schools’ physical activity facilities when school is not in session
- Creating Walking Trails/Bike Paths/Recreational spaces
The Public Health Law Center

Services include:

- Legal research
- Policy development
- Publications
- Training
Joint Use of School Recreational Facilities: Issues and Evidence

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The University of Florida (UF) is a major, public, comprehensive, land-grant, research university. The state's oldest and most comprehensive university, UF is among the nation's most academically diverse public universities. UF has a long history of established programs in international education, research and service. It is one of only 17 public, land-grant universities that belongs to the Association of American Universities.
The College of Health and Human Performance embraces opportunities for conducting research and discovering knowledge. We seek answers on questions about improving human health. Faculty study the immediate and lasting effects of exercise and its use in disease prevention and rehabilitation, how to facilitate behavior changes that lead to healthier lifestyles, and the role and impact of recreation, sport and tourism on individuals, society and the environment.
Introduction

- Policy and Built Environment Research
  - My experience:
    - Research on joint and shared use of school and park recreational facilities
    - Review of legislation relevant to shared use
    - Inform policy guidance and school liability legislation
  - Collaborations with American Heart Association, Public Health Law Center, and Robert Wood Johnson Foundation Active Living Research Program
Importance of Access

• Goal: Increase Access and Opportunities for Physical Activity
  ◦ The CDC determined that creating and improving places to be active can result in a 25 percent increase in the percentage of people who exercise at least three times a week.
  ◦ Authoritative groups recommend access, and joint use of school facilities
    • IOM, AAP, White House Task Force, Healthy People 2020...
  ◦ Relationship Building
Importance of Access

- Many Communities Lack Access to Safe and Affordable Recreation Facilities

Photo provided by Dr. Robert Ogilvie and Public Health Law & Policy
Importance of Access

• Evidence suggests that access to school recreational facilities outside of regular school hours improves the likelihood that children will be active.
Types of Joint and Shared Use

- *Community access* to schools after hours for informal or shared use

- *Joint use* by parks, schools and community groups
  - Schools or Parks share facilities for games or practices with community sports leagues or faith-based groups.

- *Reciprocal Access*
  - Schools sharing nearby facilities with parks for recess, organized sports or physical education classes
Evidence on Progress

- Only 28.8 percent of the Nation’s public and private schools provided access to their physical activity spaces and facilities for all persons outside of normal school hours in 2006.
  - Healthy People 2020, SHPPS

- National data indicate a lack of progress from 2000 to 2006 toward increasing the proportion of the nation’s public and private schools that provide access to their physical activity facilities for all persons outside of normal school hours.
  - Evenson, et al
Opportunities and Challenges to Joint Use

- Research Findings
  - RWJF sponsored research and others
Evidence on Opportunities and Motivators

• Motivators to Shared-Use
  • Among principals in low-income and minority communities (national study), the primary motivators for shared use were:
    • Building relationships with families,
    • Community collaboration, and
    • Providing a clean, safe environment for people in the community to be physically active.
Evidence on Challenges and Barriers

Barriers to Joint Use

Prior studies have found that primary perceived barriers to community/joint use by school administrators are:
- liability
- safety
- insurance
- security
- cost
- staffing
- vandalism
- operations
- ownership
- and scheduling and priority of use issues.

Studies to date have found that concern over liability is a primary perceived barrier among school administrators to allowing joint use and community access.

Photo provided by Dr. Robert Ogilvie and Public Health Law & Policy
Evidence on Challenges and Barriers

- **Liability**

- One study conducted in *four communities* in the United States found that safety, insurance, and liability concerns are key perceived barriers that need to be addressed with schools before indoor and outdoor recreational facilities can be made available to the public.
  - Evenson et al

- A national survey of school principals in *underserved communities* found that:
  - Eighty-three percent of school administrators were somewhat to very concerned about liability should someone be injured while participating in recreational or sport activities while on school property outside of regular school hours.
  - Among those who did not open their facilities for community use, 91% were somewhat to very concerned about liability.
  - Eighty-three percent believed that stronger legislation was needed to better protect schools from lawsuits.
  - Among those who did not open their facilities for community use, 86% believed that stronger legislation was needed to better protect schools from liability.
  - Among those that had a liability claim brought against them within the past five years resulting from a person injured while engaging in a recreational activity on school property outside of regular school hours, 94% believed that stronger legislation was needed to better protect schools from liability.
  - Spengler et al
Addressing the Challenges

- **Policy Initiatives**

- **Local Policy**
  - Joint use agreements- sharing the liability and/or costs of liability insurance

- **State Policy**
  - Policy guidance and state legislation on limited liability for recreational use of school facilities during non-school hours
The AHA & Recreational Use of School Facilities During Non-School Hours

Creating a Policy Change Campaign Plan
The AHA & Recreational Use of School Facilities During Non-School Hours

Why is this important for AHA?
The AHA Policy Position

The AHA’s Policy Position for Shared and Joint use of School Property for Recreational Use
The AHA Policy Position

Pass state legislation that encourages, supports, or authorizes school districts to enter into agreements supporting joint use of facilities and protects schools from liability when they enter these agreements with third parties.
The AHA Policy Position

Modify existing resources/and toolkits to apply more generally to states across the country and disseminate these resources to communities to educate and inform about the importance of developing and maintaining joint use agreements through existing state and federal funding programs or information dissemination.
The AHA Policy Position

Integrate joint use agreements into school construction projects and encourage districts to reconsider traditional school architecture to make facilities more inviting to the community. Since the voter population with school-aged children is often declining in many areas of the country, it may be easier to garner support for school construction projects if the new facilities are shared with the community.
The AHA Policy Position

Integrate joint use agreements into the existing federal and state programs, such as the Land and Water Conservation Fund.

Incorporate joint use agreements into statewide recreation plans (SCORPs).

Have state and federal governments require communities applying for public funding or grants to implement joint use agreements.
The AHA Efforts Around the Country

Overview of efforts around the country: why focus on liability
The AHA Efforts Around the Country

Passed:
✓ Minnesota
✓ North Dakota
✓ Tennessee
✓ Louisiana
✓ Nevada

Pending:
While many state obesity coalitions are still developing their agenda for 2012, we believe that shared use will be discussed in 15 to 20 states this winter.
Know the Legal Landscape

- Use of School Property by Public
- Shared Use Agreements
- Governmental Immunity
- Recreational User Statute
- Limits on Recovery
- Insurance Requirements
- Court cases
- Other statutes
Know the Legal Landscape

Working with Key Stakeholders:
Starting with the AHA Policy Guidance
Elements of Liability

✓ Duty of care;

✓ Failed in Duty; and

✓ That failure caused harm that could have been reasonably expected to occur
Defenses to Liability: Immunity
The AHA Policy Guidance: Key Components

- Findings
- Purpose
- Definitions
- Restrictions/requirements
- Exemptions
- Implementation/Enforcement
Whereas, fear of liability among school administrators is a key perceived barrier to allowing community access to school sport and recreational facilities after-hours.

Spengler JO, Connaughton DP, Maddock JE. Liability concerns and access to school recreational facilities in underserved communities. 
The AHA Policy Guidance: Proposed Findings

Whereas, disadvantaged individuals and communities often live in urban areas with higher pollution levels, less green space and fewer recreational facilities.

The AHA Policy Guidance: Proposed Purpose

The purpose of this legislation is to make school property available to community members outside of the school day for recreational activities to support active living, reduce obesity, reduce health care costs associated with obesity, increase community safety, maximize community resources, and promote community support for public schools.
The AHA Policy Guidance: Proposed Key Definitions

✓ Recreation
✓ School property
✓ Sport
✓ Shared Use Agreement
✓ Public
✓ Non-school hours
The AHA Policy Guidance:
Proposed Key Definitions

✓ **Recreation**: any indoor or outdoor game or physical activity, either organized or unorganized, undertaken for exercise, relaxation, diversion, sport, or pleasure.

✓ **School property**: all indoor or outdoor structures, facilities and land, whether owned, rented or leased by the school or school district.

✓ **Sport**: an activity requiring physical exertion and skill, and which by its nature and organization is competitive, includes a set of rules and generally accepted as being a sport.
The AHA Policy Guidance:
Proposed Key Definitions

✓ **Shared Use Agreement:** a legal agreement that defines the rights and responsibilities of the school district and another organization or government agency for use of the school facilities for recreation or other purpose of importance to the community.

✓ **Public:** members of the community, including students during non-school hours and school staff when not working as employees of the school.

✓ **Non-school hours:** during the week prior to and after regular classroom instruction, and during the weekends, holidays and vacation breaks.

✓ A school district shall allow the public to use school property during non-school hours, both indoor and outdoor, for recreational purposes or sport. The school district will ensure that the use of school facilities does not interfere with their use for school purposes.

✓ A school district or school personnel will not be liable for any claim from a loss or injury arising from the use of indoor or outdoor school property and facilities made available for public recreation or sport during non-school hours.
The AHA Policy Guidance: Proposed Exception

Nothing in this subdivision limits the liability of a school district for conduct that would entitle a trespasser as defined by the Restatement of Torts, Section 335, to damages against a private person.
The AHA Policy Guidance: Proposed Implementation

Schools are encouraged to negotiate mutually acceptable, fiscally responsible, legally binding shared use agreements with governmental and community agencies and organizations to keep school- or district-owned facilities open for use by students, staff, and community members during non-school hours. Shared-use agreements should describe specific activities, times, and eligible participants and address supervision of minors; injury liability protections, funding sources, cost-sharing of utilities; and respective responsibilities for maintenance, cleanup, and security.

The AHA Policy Guidance: Proposed Implementation

School districts shall work with recreation agencies and other community organizations to coordinate and enhance opportunities available to students, staff and the public for physical activity during non-school hours.

The AHA Policy Guidance: Proposed Implementation

The Department of Education, in consultation with the Department of Health, will develop a toolkit for school districts. This toolkit will include:

1) information outlining liability protections for both the school district and school personnel for injuries resulting from community recreational use of school property;

2) model shared-use agreement language;

3) a list of technical assistance resources available for the school districts to promote community recreational use of school property;

4) a list of potential community partners for shared-use agreements; and

5) a list of any grants or funding opportunities available to the school districts to promote community recreational use of school property. This toolkit will be posted on the Department of Education and Department of Health websites.
The AHA Policy Guidance: Proposed Implementation

The Department of Education, in consultation with the Department of Health, will provide a link on the website to any school district policies or procedures that promote community recreational use of school property to encourage information sharing amongst the school districts.

http://www
The AHA Policy Guidance: Proposed Implementation

School districts shall have a School Health Council, otherwise known as a School Wellness Committee. A School Health Council is a group representing educators and administrators, parents, students and community members who work in partnership to improve the health in the school setting. School districts can utilize existing groups, and shall develop guidelines or procedures for the School Health Council, if not otherwise in place. School districts, in consultation with the School Health Council, will address community recreational use of school property.
Other Important Resources

Coming Soon!
Fit, Healthy, and Ready to Learn: A School Health Policy Guide
Chapter D. Policies to Promote Physical Activity and Physical Education, Second Edition

Model Policy:

BEFORE- AND AFTER-SCHOOL SPORTS AND ACTIVITIES

GOALS. To supplement the school-based physical activity and physical education program, students will be provided ample opportunities to participate in before- and after-school physical activity clubs, intramural sports programs, interscholastic athletics, and community-based recreation programs that help meet their needs for physical activity.

STUDENT CARE PROGRAMS. School-age care programs that serve students without a supervising adult at home before or after school or during breaks in the school calendar shall provide participating students daily, frequent opportunities for moderate-to-vigorous physical activity, unstructured play, and organized physical activities regardless of weather. Children should be permitted to play outdoors provided that the wind chill or temperature is above 15°F or the heat index or temperature is below 90°F. In cold weather, children should be dressed warmly and in layers. Air quality risk should be determined by the local authorities or smog alerts. All such programs are required to meet the physical activity requirements of the National AfterSchool (NAA) Association Standards for Quality School-Age Care.
Other Important Resources

http://citiesandschools.berkeley.edu/joint-use.html
Other Important Resources

www.jointuse.org
Next webinar in the series

Regulating Non-Cigarette Tobacco Products More Effectively

November 2\textsuperscript{nd}, 12:00 - 1:30 p.m. Central

More information at [www.publichealthlawcenter.org](http://www.publichealthlawcenter.org)
Drafting Effective Public Health Policies

Questions & Answers

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