



# UNLOCKING the gates

*Implementing Shared Use Agreements*



# Shared Use Legislation in Indiana

In 2013, the State of Indiana enacted **House Enrolled Act 1159 – Liability for Use of School Facilities**. This bill limits the liability of a public school or an accredited nonpublic school that opens up school property for community physical activity.

The General Assembly recognizes that schools are a great community resource. With any resource there must be some protections for those who use it and for the entities providing it. This law allows schools to open up or **share** their property to the community for purposes of physical activity. The general public can have access to playgrounds, gymnasiums, pool, tennis courts, and fitness centers.

The law also provides protections to schools by limiting the liability for providing physical fitness activities. A school is not liable for the death or injury of a participant that results from an inherent risk of a physical fitness activity. A participant or the representative of a participant may not: **(1) make a claim against; (2) bring or maintain an action against; or (3) recover damages from; a school for injury, loss, damage, or death of a participant that results from the inherent risk of a physical fitness activity.** Schools opening their doors are required to post a warning sign informing the public of the inherent risk of fitness activity and that schools will not be held liable for any injury that results from the activity.



Indiana State  
Department of Health

Division of Nutrition  
and Physical Activity

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What's in this toolkit?

# Making the Case

Many communities lack access to recreational facilities and space to play or be physically active. Only 55.5% of public middle and high schools in Indiana provide community access to school recreational spaces outside of the school day.<sup>++</sup> Children in low income and predominately racial/ethnic minority communities are more likely to be less active, in part, because they often lack access to safe, free or low cost, and convenient recreation and sport facilities.<sup>6,7</sup> Schools can play an integral role in increasing access by opening existing facilities during non-school hours, integrating the opportunity for community use when planning new construction projects, or building collaborative relationships with local governments, organizations, or the community in general.

Obesity continues to be a major threat to public health in Indiana. Most recent data show that 66.4% of Hoosier adults were overweight or obese in 2014, with over 32% of those adults identified as obese.\* Weight issues are not confined to adults as we see younger individuals battle with overweight and obesity in both national and state data. Among Indiana high school students, 30.9% were overweight or obese in 2015, and more than 13% of those students were obese.<sup>+</sup>



The Centers for Disease Control and Prevention (CDC) recommend that adolescents do 60 minutes of physical activity each day.<sup>#</sup> Among Indiana high school students, only 25% report that they met that recommendation during the past week. Furthermore, almost 15% of high school students report that they were not physically active for 60 minutes a day on any day during the past week.<sup>+</sup>

The CDC recommends that adults over 18 years of age participate in 150 minutes of aerobic physical activity each week and muscle-strengthening activities on 2 or more days a week.<sup>#</sup> Among Indiana adults, 44% report that they meet the recommended aerobic physical activity per week and 26% meet the muscle strengthening guideline. However, only 16% of Indiana adults met both recommendations for aerobic and muscle strengthening exercises.<sup>\*\*</sup>

Obesity is also a significant driving factor in health care spending, accounting for an estimated 12% of growth in recent years, with one estimate putting the annual cost of being overweight and/or obese at \$117 billion per year.<sup>5</sup> Nearly 80% of adults and 82% of children do not get the recommended amount of physical activity each week.<sup>8</sup> If only one-tenth of Americans began a regular walking program, \$5.6 billion in heart disease costs could be saved.<sup>2</sup>

Increased access to school facilities may also increase social networks and enhance community connections, and possibly deter criminal behavior. The social benefits from community access to open green space in urban settings are generally attributed to residents spending time outdoors and interacting with neighbors.<sup>4</sup>

# Considerations for Decision Makers

Community use of school property can be a formal or informal agreement between two separate entities, often a school district and a city or county organization, setting forth the terms and conditions for the community use of school property of public property. With thoughtful planning, community use agreements can play an important role in increasing recreational opportunities for children and their families. In the case of schools, parents and community members can get involved by urging school officials (including school board members) and city or county officials to pursue a community use of school property agreement or policy that would make school facilities more widely accessible.

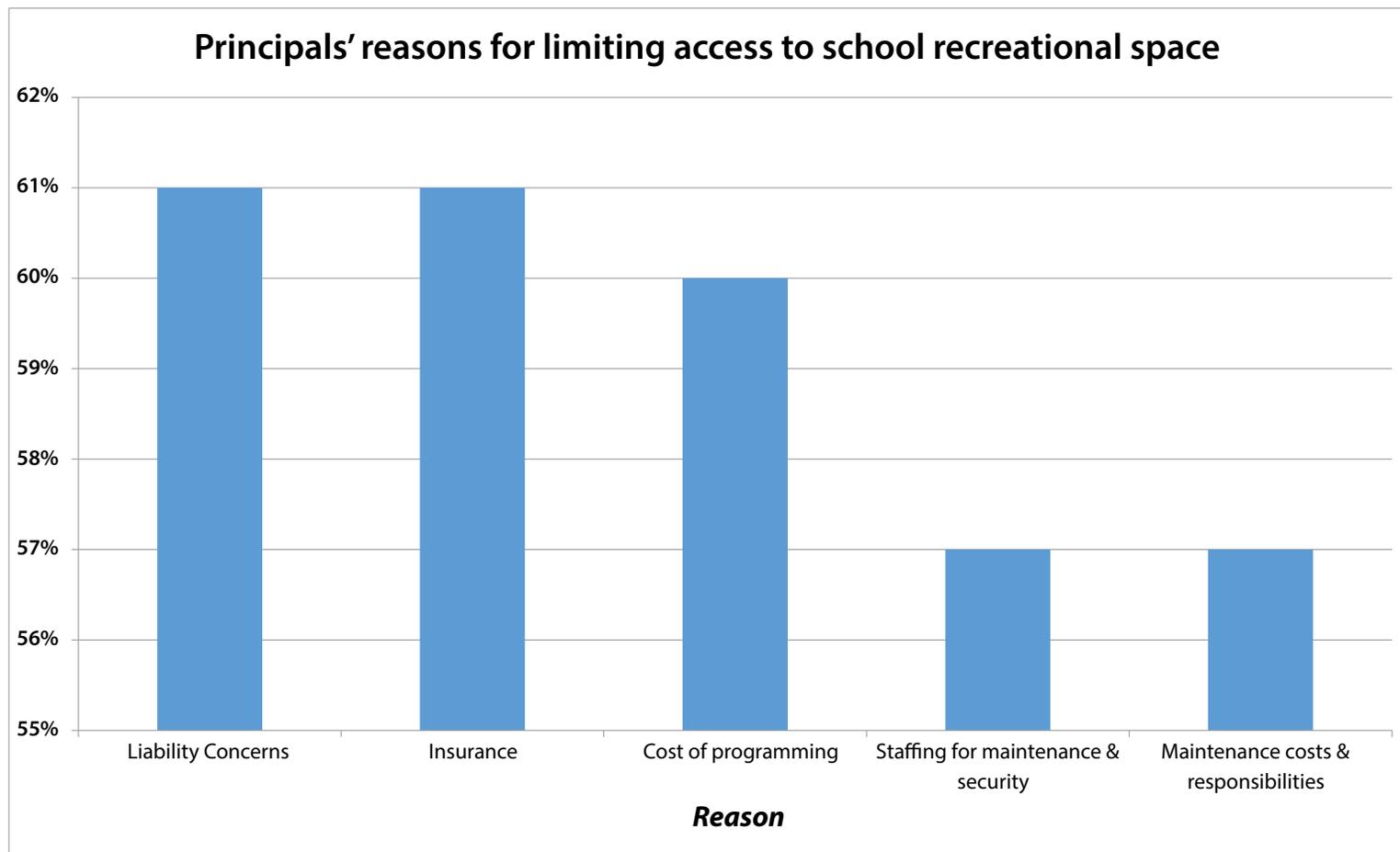
Community use of school property agreements can be written for various types of facilities; this toolkit focuses solely on indoor and outdoor school recreational facilities, such as tracks, playgrounds, wellness centers, and gymnasiums. These agreements can range from open community use, to organized, after-school or weekend athletic activities for adults and youth.





# Common Barriers

A national survey of school principals in low-income and minority communities found that schools do not allow community access for recreational purposes for several reasons:<sup>9</sup>



While these concerns are valid, there are models that suggest ways to overcome these barriers:

Barrier or Concern	Options for Overcoming Barrier
<p><b>Legal Liability</b></p>	<p>Indiana law limits the liability of a public school or an accredited nonpublic school that provides physical fitness activities to the general public:</p> <p><a href="http://www.in.gov/legislative/bills/2013/HE/HE1159.1.html">http://www.in.gov/legislative/bills/2013/HE/HE1159.1.html</a></p> <p>Consult with school district’s risk manager (or person filling this function).</p>
<p><b>Scheduling Conflicts</b></p>	<p>Consider creating a master plan detailing priority of use, and regularly scheduled activities. Consider utilizing an electronic system for ease of access by all potential users.</p>
<p><b>Vandalism</b></p>	<p>Consider traditional proactive prevention measures (security cameras, warnings, emergency telephones, etc.).</p> <p>Tuscon, Arizona has seen a reduction in vandalism, which school officials and city staff attribute to higher usage rates. “When the playgrounds were locked up and infrequently used, kids were sneaking in, and that’s when they would do the damage. Now, knowing anyone can walk in at any time, they must be afraid of getting caught if they are doing something wrong, so they don’t do it.”</p>
<p><b>Budget Concerns (maintenance, staffing, etc.)</b></p>	<p>Consider designating a specific door, hours, and locations for community members to use (which coincide with current maintenance staff schedules) so that additional wages do not have to be incurred.</p>

# Success Stories

▶ **Batesville Schools** have agreements with the YMCA and the Batesville Parks & Recreation Department. In each of these cases, needs would arise that required the use of facilities and efforts were coordinated to provide for such use.

▶ **Flat Rock-Hawcreek School Corporation.** A community volunteer organizes an open door Run/Walk Program for anyone interested. The program is three days per week 6:30 - 7:30 a.m. in a newly constructed athletic field house. Participants are especially appreciative of using the facility during cold winter months when walking or running outside is prohibitive. The school is in a rural area with no other close indoor facility for residents to use when temperatures drop and roads are icy. The age range of the runners and walkers is from early 30's to 70+ with a wide span of athletic levels. Reasons for participating vary from wanting to lose weight to working on recovery from heart surgery to maintaining a general healthy lifestyle.

▶ **Speedway Schools** have a formal agreement with the Speedway Parks Department in which the schools host various programs for community members. However, they also open their high school up to the community during the winter months. Early morning walkers can enjoy music while walking for up to an hour prior to the start of school. To overcome any liability issues this may cause the legal department created signs warning walkers that they participate at their own risk. This is a great example of how a school district can allow members of the community to utilize school facilities as a means for increased physical activity.

1. Effective implementation should involve a set of complementary measures to increase understanding of the changes and put the policy into practice, including language that:

- a. Encourages or requires school districts to allow community recreational use of school property during non-school hours.
- b. Authorizes and supports implementation of community use of school property agreements.
- c. Develops a centralized structure for training about liability, model community use of school property agreements, lists of technical assistance resources, community partners and funding.

2. Type of activity

- a. Unsupervised or informal physical activities on the outdoor school property, such as children playing on a playground or an informal game of basketball, and unsupervised or informal physical activities on the indoor school property, such as open gym or walking the hallways in bad weather.
- b. For schools, recreational use of school property by community members for physical activity is generally associated with community access to the school's outdoor playgrounds, tracks, and fields, although it can be for indoor gyms, pools, or other indoor recreational equipment. Often this includes organized and formal or unstructured and informal sports. There are many types of entities that use school property outside of the school day.

3. Many communities are also considering local policies to encourage or require the community use of school property to promote physical activity. In addition, some local governments include community use of school property as part of city planning and design strategies.

**Additional Advice**

# Sample Policy 1

**Whereas:** Obesity is quickly becoming the fastest growing cause of disease and death in America, with conservative estimates by the Centers for Disease Control (CDC) showing nearly 66 percent of adults and 17 percent of children impacted nationwide; and

**Whereas:** Indiana's struggles with childhood obesity and lack of opportunity for physical activity are well-documented; and

**Whereas:** State budget constraints have prompted several reductions in public school funding, further reducing focus on physical education and nutrition within the school environment; and

**Whereas:** Indiana's children are not receiving adequate recreation opportunities during school hours, their afterschool programs are similarly affected and they are too often left unsupervised and unengaged in their communities once the school day concludes; and

**Whereas:** In recent years, increasing access to recreational facilities that already exists at schools has emerged as one of the most promising strategies for building more opportunities for activity into neighborhoods. This promise is rooted in the realization that even the most poorly designed and underserved neighborhoods include schools. In an era of never-ending budget shortfalls, maximizing access to existing facilities – rather than trying to construct new ones – is the most efficient and economical use of public resources; and

**Whereas:** Community use of school property agreements offer a way for school districts to open their facilities to community use. A community use of school property agreement can allow community access to school property by allowing the district to open the property for after-hours use.

**Therefore be it resolved:** That the Board of Education in (insert jurisdiction) promotes the utilization of community use of school property agreements between schools and the community to allow for increased access by students and community members, foster neighborhood learning and vitality, create a sense of ownership among community members and increase operational efficiencies and cost savings.

**Source:** Evansville Vanderburgh County School Corporation

The School Board advocates the joint expenditure of Corporation funds and those of other government bodies to provide facilities from which the entire community, children and adults alike, may derive benefits.

In accordance with this policy, the Board shall, as either opportunity or need arises and as it is entitled to do so by law, join with local municipal governing body, each or all of the governing bodies of municipalities comprising the Corporation, and other school corporations or educational institutions in acquiring, improving, equipping, operating, or maintaining joint-use facilities as: parks, playgrounds, playing fields, gymnasiums, swimming pools.



Sample Policy 2

# Quick Start Checklist

Step	Description
Statement of Purpose/Developing Community use of school property policy	General statement identifying school district support for community use of school property
Policy Consistency	Cross-reference existing school policies, list those that intersect with community using school grounds (such as drug use, guns, etc.)
Authority	School district approval of community use of school property policy; identify the person(s) with authority to approve facility use
Scheduling	Discuss time/place/area of school grounds that will be used for each activity
Staffing	When is school district staffing required, specific information on custodial staff need, roles, responsibilities
Supervision	List requirements for supervision

Step	Description
Facilities	What equipment/facilities are open to use; list specific parts of the school (both inside and outside) that are available for general use without scheduling and which are available with advance scheduling.
Upkeep of facilities and inspection	List the roles and responsibilities for the school district vs. users, as well as a process for users to report problems to the school/school district
Communication	Detail plans for communication including rules for recreational use of school grounds
Roles and Responsibilities	Who is responsible for materials, equipment, maintenance, etc.
Liability	Risk management strategies describing participant's assumption of risk, posting proper signage
Other	List of general rules and conditions relating to use of facilities, would address prohibitions against alcohol, tobacco, drugs and weapons, etc.

## Quick Start Checklist

# For More Information

If you need support in developing or implementing community use of school property for physical activity, please contact:

- Indiana State Department of Health, Department of Nutrition and Physical Activity:

Website: <http://www.state.in.us/isdh/20060.htm>

Phone: 317.233.1325

- Top 10, YMCA of Greater Indianapolis

Email: [top10@indymca.org](mailto:top10@indymca.org)

Phone: 317.266.9622



Indiana State  
Department of Health

Division of Nutrition  
and Physical Activity



1. American Heart Association, With a Very Heavy Heart, Obesity and Cardiovascular Disease, at 1, [http://www.heart.org/idc/groups/heartpublic/@wcm/@adv/documents/downloadable/ucm\\_305059.pdf](http://www.heart.org/idc/groups/heartpublic/@wcm/@adv/documents/downloadable/ucm_305059.pdf)
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9. JO Spengler & YJ Ko, Active Living Research National Conference, San Diego, CA, February, 2011.
10. U.S. Department of Health and Human Services. Healthy People 2020: Physical Activity Objectives, (2010), available at <http://www.healthypeople.gov/2020/topicsobjectives2020/objectiveslist.aspx?topicid=33>

\*Source: Indiana State Department of Health (2015). Behavioral Risk Factor Surveillance System, 2014.

+Source: Indiana State Department of Health (2016). Youth Risk Behavior Surveillance, 2015.

#Source: <http://www.cdc.gov/physicalactivity/everyone/guidelines/index.html>

\*\*Source: Indiana State Department of Health (2014). Behavioral Risk Factor Surveillance System, 2013.

++ Source: Indiana State Department of Health (2015). School Health Profiles, 2014.

## References

