

State of California

EDUCATION CODE

Section 38134

38134. (a) (1) The governing board of a school district shall authorize the use of school facilities or grounds under its control by a nonprofit organization, or by a club or an association organized to promote youth and school activities, including, but not necessarily limited to, any of the following:

(A) The Girl Scouts; the Boy Scouts; Camp Fire USA; or the YMCA.

(B) A parent-teacher association.

(C) A school-community advisory council.

(D) A recreational youth sports league that charges participants no more than a nominal fee. As used in this subparagraph, "nominal fee" means an average of no more than sixty dollars (\$60) per month.

(2) This subdivision does not apply to a group that uses school facilities or grounds for fundraising activities that are not beneficial to youth or public school activities of the school district, as determined by the governing board of the school district.

(b) Except as otherwise provided by law, a governing board of a school district may charge an amount not to exceed its direct costs for use of its school facilities or grounds pursuant to this section. A governing board of a school district that levies these charges shall first adopt a policy specifying which activities shall be charged an amount not to exceed direct costs.

(c) The governing board of a school district may charge an amount, not to exceed its direct costs for use of its school facilities or grounds by the entity using the school facilities or grounds, including a religious organization or church, that arranges for and supervises sports league activities for youths as described in paragraph (6) of subdivision (b) of Section 38131.

(d) The governing board of a school district that authorizes the use of school facilities or grounds for the purpose specified in paragraph (3) of subdivision (b) of Section 38131 shall charge the church or religious organization an amount at least equal to the school district's direct costs.

(e) In the case of entertainment or a meeting where an admission fee is charged or contributions are solicited, and the net receipts are not expended for the welfare of the pupils of the school district or for charitable purposes, a charge equal to fair rental value shall be levied for the use of the school facilities or grounds.

(f) If the use of school facilities or grounds under this section results in the destruction of school property, the entity using the school facilities or grounds may be charged for an amount necessary to repay the damages, and further use of the facilities or grounds by that entity may be denied.

(g) As used in this section:

(1) "Direct costs" to the school district for the use of school facilities or grounds includes all of the following:

(A) The share of the costs of supplies, utilities, janitorial services, services of school district employees, and salaries paid to school district employees directly associated with the administration of this section to operate and maintain school facilities or grounds that is proportional to the entity's use of the school facilities or grounds under this section.

(B) The share of the costs for maintenance, repair, restoration, and refurbishment, proportional to the use of the school facilities or grounds by the entity using the school facilities or grounds under this section as follows:

(i) For purposes of this subparagraph, "school facilities" shall be limited to only nonclassroom space, and "school grounds" shall include, but not necessarily be limited to, playing fields, athletic fields, track and field venues, tennis courts, and outdoor basketball courts.

(ii) The share of the cost for maintenance, repair, restoration, and refurbishment shall not apply to:

(I) Classroom-based programs that operate after school hours, including, but not necessarily limited to, after school programs, tutoring programs, or child care programs.

(II) Organizations retained by the school or school district to provide instruction or instructional activities to pupils during school hours.

(iii) Funds collected under this subparagraph shall be deposited into a special fund that shall only be used for purposes of this section.

(2) "Fair rental value" means the direct costs to the school district plus the amortized costs of the school facilities or grounds used for the duration of the activity authorized.

(h) By December 31, 2013, the Superintendent shall develop, and the state board shall adopt, regulations to be used by a school district in determining the proportionate share and the specific allowable costs that a school district may include as direct costs for the use of its school facilities or grounds.

(i) (1) A school district authorizing the use of school facilities or grounds under subdivision (a) is liable for an injury resulting from the negligence of the school district in the ownership and maintenance of the school facilities or grounds. An entity using school facilities or grounds under this section is liable for an injury resulting from the negligence of that entity during the use of the school facilities or grounds. The school district and the entity using the school facilities or grounds under this section shall each bear the cost of insuring against its respective risks, and shall each bear the costs of defending itself against claims arising from those risks.

(2) Notwithstanding any other law, this subdivision shall not be waived. This subdivision does not limit or affect the immunity or liability of a school district under Division 3.6 (commencing with Section 810) of Title 1 of the Government Code for injuries caused by a dangerous condition of public property.

(j) This section shall remain in effect only until January 1, 2025, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2025, deletes or extends that date.

(Amended (as amended by Stats. 2016, Ch. 120, Sec. 1) by Stats. 2019, Ch. 541, Sec. 1. (AB 1303) Effective January 1, 2020. Repealed as of January 1, 2025, by its own provisions. See later operative version, as amended by Sec. 2 of Stats. 2019, Ch. 541.)