

Eligible Users

The Board of Education may grant the use of school buildings or grounds provided that such use shall be scheduled to insure that all education programs and/or activities of the District shall have first call on said facilities. Such related programs and/or activities and organized community groups conducting activities in accordance with Civic Center provisions of the Education Code shall have priority.

Priority for use of facilities within the Morgan Hill Unified School District Educational programs/activities in the following order:

1. Use by the Morgan Hill Unified School District in conducting the education programs of the District including district-wide activities, extra-curricular activities, and school clubs/organizations
2. Use by school related groups such as parent organization groups for activities directly benefiting, or of service, to the students of the District including youth groups such as Boy and Girl Scouts, Camp Fire, etc.
3. Use by the Morgan Hill Unified School District and/or the City of Morgan Hill in conducting community recreation programs
4. Public agencies, such as the American Red Cross, for mass care and welfare shelters during disasters and other emergencies affecting public health and welfare
5. Use by individuals or organizations in accordance with the Civic Center Act provisions of the Education Code such as senior citizen organizations, and adult organizations, clubs or associations organized for recreational, cultural and/or general character building or welfare purposes
6. Other organizations, groups, or clubs not included above

Any persons applying for the use of any school facility or ground on behalf of any society, group or organization shall present written authorization from the organization to make the application.

Persons or organizations applying for the use of school facilities or grounds shall submit a statement of information indicating that the organization upholds state and federal constitutions and does not intend to use the premises to commit unlawful acts.

Civic Center Use

Subject to district policies and regulations, school facilities and grounds shall be available to citizens and community groups as a civic center for the following purposes: (Education Code 32282, 38131)

1. Public, literary, scientific, recreational, educational or public agency meetings
2. The discussion of matters of general or public interest
3. The conducting of religious services for temporary periods, on a one-time or renewable basis by any church or religious organization.
4. Child care programs to provide supervision and activities for children of preschool and elementary school age
5. The administration of examinations for the selection of personnel or the instruction of precinct board members by public agencies
6. Supervised recreational activities including, but not limited to, sports league activities that are arranged for and supervised by entities, including religious organizations or churches, and in which youths may participate regardless of religious belief or denomination
7. A community youth center
8. Mass care and welfare shelters during disasters or other emergencies affecting the public health and welfare

(cf. 3516 - Emergencies and Disaster Preparedness Plan)

9. Other purposes deemed appropriate by the Governing Board

Restrictions

School facilities or grounds shall not be used for any of the following activities:

1. Any use by an individual or group for the commission of a crime or any act prohibited by law
2. Any use which is inconsistent with the use of the school facility for school purposes or which interferes with the regular conduct of school or schoolwork
3. Any use, which involves the possession, consumption or sale of alcoholic beverages, or any restricted substances, including tobacco use

(cf. 3513.3 - Tobacco-Free Schools)

(cf. 5131.6 - Alcohol and Other Drugs)

4. The district may exclude certain school facilities from non-school use for safety or security reasons. E.g., offices or computer rooms containing records and

- confidential information; science rooms or rooms containing hazardous chemicals or equipment that cannot be used safely without special knowledge or skills
5. Activities, which are discriminatory in the legal sense
 6. Use of school facilities for games of chance or the use of any scheme or device which encourages or suggests gambling or games of chance except those specifically exempted by law
 7. Animal training or shows
 8. Any use which constitutes a monopoly for the benefit of any person or organizations. A monopoly is defined as a substantially permanent use of a facility to the exclusion of others

Other requirements and restrictions on use of school facilities:

1. No alcoholic beverages, intoxicants or controlled substances in any form shall be brought onto District property. Any person in possession or under the influence of these substances shall be denied participation in the activity
2. The District is a smoke-free environment and no smoking is allowed in or on the District's buildings or grounds
3. All meetings involving children must be supervised by responsible adults throughout the period in use with the number of supervisors varying according to the number of participants
4. The principal of the school may make additional restrictions, particular to the school building, when such restrictions are in the best interest of the parties involved
5. Use of any materials on floors or other parts of the building without prior approval of the principal or principal's designee is strictly prohibited
6. The District does not permit vehicles to be driven or parked on campus at any time without advance approval of the principal or the principal's designee
7. Any decorations shall be erected in a manner that will not be destructive of school property, in accordance with local and State Fire Marshall regulations, and approved by the principal or principal's designee
8. Organizations using the cafeterias, multipurpose rooms or any other areas must set up and restore, under the supervision of District staff, all furniture and equipment that has been moved or dismantled

9. The permit holder shall assume responsibility for securing necessary police/security supervision of so directed by the school administration
10. Groups, organizations or persons using school facilities or grounds shall be liable for any property damages caused by the activity. The Board may charge the amount necessary to repair the damages and may deny the group further use of school facilities or grounds. The permit holder shall be fully responsible for all loss of school property, including that belonging to students or employees as well as the applicant's own property, occurring during the time the facility is in use under permit
11. Permission for use of special or extra equipment during use of the facility must be indicated on the application. No equipment shall be used outside school property. Upon proper application being made, this shall not restrict the use of equipment by school employees in approved school-related programs, or for approved community events
12. No structural, electrical, plumbing modifications or mechanical apparatus may be erected or installed on District property without specific written approval of the District. Organizations granted use of District facilities shall assume full responsibility for compliance with all applicable state and local fire, health and safety laws and regulations. Unauthorized use of and/or adjustments to any portion of the heating, electrical, air conditioning, bell or alarm systems is strictly prohibited
13. All draperies, hangings, curtains, drops, decorations or decorative material used on District property shall be made of or treated with flame proof or flame retardant material approved by the State Fire Marshall
14. Use of the Performing Arts Center, multi-purpose room or gymnasium will be available for limited use only. Groups, organizations or persons other than District organizations will be limited to twelve (12) uses per school year. Exclusions for the use of the multi-purpose room or the gymnasium will be limited to associations organized for recreation.

Damage and Liability

The use of District facilities shall be conditioned upon the user agreeing to hold the District, its Board of Education and individual members thereof, and its officers, agents and employees free and harmless from any loss, damage, liability, cost or expense that may arise out of or be caused in any way by such use or occupancy of school property.

Any group or organization using school facilities or grounds shall be liable for any injuries resulting from its negligence during the use of district facilities or grounds. The group shall bear the cost of insuring against this risk and defending itself against claims arising from this risk. (Education Code 38134)

Insurance

Groups or organizations shall provide the district with evidence of insurance against claims arising out of the group's own negligence. Groups or organizations shall also be required to include the district as an additional insured on their liability policies for claims arising out of the negligence of the group.

All groups shall be charged the amount necessary to repair any damages to school facilities caused by their use and shall be charge all fees and costs, including the alarm fees of the City of Morgan Hill. Groups shall furnish a Certificate of insurance naming the District as an additional insured.

Groups using District facilities shall be responsible for the condition in which they leave the facilities. Any abuse or misuse of facilities, including playing fields, shall be reported immediately to the Principal or Director of Facilities.

The Superintendent may deny any group further use of school facilities as a result of any damage or injury to, or improper use of school property, facilities or grounds.

As permitted, the Superintendent or designee may require indemnification and a hold harmless agreement when warranted by the type of activity or the specific facility being used.

Keys

All keys shall remain in the possession of authorized District employees. Keys will not be loaned to organizations or groups. All buildings shall be opened, attended and closed by authorized District employees as covered.

Payment of Fees and Deposits

1. Filing fee is due at the time the application is submitted
2. After application is approved, the organizations will then be billed on a monthly basis
3. A refundable damage deposit of five hundred dollars (\$500) is due prior to use of the performing arts center. The deposit may be returned in full once the District representative has evaluated the facility to ensure no damage was caused during use. If damage is found, the District will use the deposit to correct such damage and future use of the facility by user may not be granted. If the damage exceeds \$500, the user will be invoiced for the difference.

Conditional Usage

The use of athletic fields may not be permitted during periods of rain or while fields remain wet following rain when such use would be harmful to the playing surface. The

use of any facility may be denied when, in the judgment of the principal and/or the District, such use would be detrimental.

User Maintenance

User groups/organizations are encouraged to, and with prior approval, maintain and improve the playing fields they use. Such maintenance and/or improvement shall be subject to the conditions contained herein.

Cancellation of Event

1. If a group or organization finds it necessary to cancel an event, at least 48 hours prior notification is required. A refund, less actual costs, will be provided if the notice of cancellation is received at least 48 hours in advance
2. The group or organization shall be charged for any expense incurred by the District
3. An approved application may be revoked with reasonable notice when the District determines an emergency exists. An emergency is defined as “any situation or potential situation determined by the District of a public agency responsible for the general health, safety or well being of students or employees, which may disrupt the educational programs or support services of the District or may result in unexpected damage or loss to District property”

Term of Usage

Permission to use District facilities shall not be granted for all periods exceeding on year, nor so often as to afford any organization a real or implied monopoly.

Adult Supervision

All groups or organizations using District facilities shall have adequate adult supervision so as to exercise control and maintain a high standard of conduct by all of those in attendance.

The District may require security as a condition of use whenever it is deemed in the best interests of the District or participants.

Legal References:

EDUCATION CODE
10900-10914.5 Community recreation programs
32282 School safety plan

38130-38138 Civic Center Act: use of school property for public purposes

BUSINESS AND PROFESSIONS CODE

25608 Alcoholic beverage on school premises

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 of So. Calif. 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.AttyGen. 90 (1999)

79 Ops.Cal.Atty.Gen. 248 (1996)

Management Resources:

CDE LEGAL ADVISORIES

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

REVISED: April 11, 2006 (Renumbered replacing AR 1610)

REVISED: August 31, 2009

REVISED: April 2010

Morgan Hill Unified School District Morgan Hill, California