

policy

BOARD OF SCHOOL TRUSTEES
SCHOOL CORPORATION

PROPERTY
7510.01/page 1 of 7

USE OF CORPORATION PHYSICAL FITNESS FACILITIES

In addition to the use of the Corporation's physical fitness facilities by students and staff, the Board authorizes use of these facilities by community participants other than students and staff subject to the requirements of this policy.

For purposes of this policy:

A. "Corporation physical fitness facilities" means Corporation property, Corporation equipment, or a Corporation facility used by a community participant to participate in a physical fitness activity.

B. "Community participant" means ~~a~~

~~(X-) resident of the community community anyone~~ served by the Corporation

~~(X) person~~

who uses one or more Corporation physical fitness facilities. Excluded from this definition and therefore this policy are students participating in an activity as part of an official school function, and current employees who use one or more Corporation physical fitness facilities in the course of their employment by the Board.

C. "Inherent risk of injury in a physical fitness activity" means a condition, danger, or hazard that is an integral part of a physical fitness activity, the use of exercise equipment, or the use of a facility provided by the Corporation as determined by a reasonable person considering the nature of the activity, equipment, or facility. The term includes the negligent acts of a community participant that may contribute to injury to the community participant or others, including failing to follow instructions; failing to exercise reasonable caution while engaging in an activity; or failing to obey written warnings or postings.

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policy

BOARD OF SCHOOL TRUSTEES
SCHOOL CORPORATION

PROPERTY
7510.01/page 2 of 7

- D. "Operator" means an elementary school (as defined under I.C. 20-18-2-4) or an approved secondary school (as defined under I.C. 21-12-1-5) that owns, manages, controls, directs, or has operational responsibility for a recreational facility.
- E. "Recreation" includes physical exercise, leisure, or sports.
- F. "Recreational facility" means a building, location, or area primarily designed and used for purposes of recreation. The term includes:
1. a gymnasium;
 - ~~2. a park;~~
 3. a playground;
 4. a swimming pool;
 5. a fieldhouse;
 - ~~6. a beach;~~
 7. a stadium;
 - ~~8. a golf course;~~
 - ~~9. a campground;~~
 10. ~~a boat launching site;~~
 - ~~an arboretum;~~
 - ~~a bicycle path;~~
 - ~~a bridle path;~~
 14. a community center;

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policy

BOARD OF SCHOOL TRUSTEES
SCHOOL CORPORATION

PROPERTY
7510.01/page 3 of 7

~~15. a bowling alley;~~

~~16. a billiard hall;~~

17. a court, field, or other area designated for sports; and

18. any other building, location, or area specifically set aside for recreation.

Corporation physical fitness facilities that are operated by an elementary school or an approved secondary school fall within the definition of "recreational facility" for purposes of this policy.

- G. "Recreational user" means an authorized user of a recreational facility who is using the facility for the recreational purpose for which it was primarily designed. However, the term does not include a person participating in or attending an intercollegiate or interscholastic event. A community participant is considered to be a "recreational user" for purposes of this policy when using Corporation physical fitness facilities that fall within the meaning of "recreational facility" for recreation.

Community participants and recreational users may use the Corporation physical fitness facilities and recreational facilities at times and in a manner approved by the Superintendent.

~~[]~~ OPTION 1

~~Community participants and recreational users shall not be charged a fee as a condition for the use of Corporation physical fitness facilities or recreational facilities.~~

[END OF OPTION 1]

~~[X-]~~ OPTION 2

Community participants and recreational users ~~shall~~ may pay a fee as determined by the Board as a condition for the use of Corporation physical fitness facilities or recreational facilities.

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policy

BOARD OF SCHOOL TRUSTEES
SCHOOL CORPORATION

PROPERTY
7510.01/page 4 of 7

[NOTE: The school attorney should provide guidance if the Board wishes to:

- A. limit use of the Corporation's physical fitness facilities or recreational facilities to residents of the Corporation or members of an athletic booster organization; or**
- B. establish a multi-tier rate structure based on these categories.**

See I.C. 34-31-10-9 providing that a school may be liable if it receives monetary consideration for use of its fitness activities unless it follows specific statutory requirements about a release signed by the community participant and the posting of a warning sign where participants will see it.]

As an additional condition for the use of Corporation physical fitness facilities and recreational facilities, a community participant or recreational user and the parent/guardian of a community participant or recreational user under eighteen (18) years of age shall execute a release in which s/he agrees to assume the inherent risk of injury in physical fitness activities and acknowledges receipt of the following written warning:

WARNING

Under Indiana law, a school is not liable for an injury to, or the death of, a participant in physical fitness activities at this location if the death or injury results from the inherent risks of the physical fitness activity. Inherent risks of physical fitness activities include risks of injury inherent in exercise, the nature of a sport, the use of exercise equipment, or the use of a facility provided by a school. Inherent risks also include the potential that you may act in a negligent manner that may contribute to your injury or death, or that other participants may act in a manner that may result in injury or death to you.

You are assuming the risk of participating in this physical fitness activity.

policy

BOARD OF SCHOOL TRUSTEES
SCHOOL CORPORATION

PROPERTY
7510.01/page 5 of 7

The WARNING language set out above shall be included verbatim in a written agreement executed by each community participant and recreational user before their first use of Corporation physical fitness facilities or recreational facilities. The WARNING shall be set out in the written agreement in bold font no smaller than fourteen (14) point. A copy of this written agreement shall be given to each community participant and recreational user at the time the agreement is signed.

The WARNING also shall be posted in letters at least one (1) inch in height on a sign placed in a location in Corporation physical fitness facilities and recreational facilities where community participants and recreational users are likely to be present and where it is visible to community participants and recreational users.

[END OF OPTION 2]

The operator of a recreational facility shall:

- A. post the duties of recreational users and the duties, obligations and liabilities of the operator in at least three (3) conspicuous locations in or along the recreational facility;
- B. maintain the stability and legibility of all signs, symbols, and posted notices required by this policy;
- C. ensure that, with respect to a recreational facility that is located in a building, at least one (1) floor supervisor is on duty when the recreational facility is open;

A floor supervisor must have received appropriate training to carry out the floor supervisor's duties and must use reasonable care in carrying out the floor supervisor's duties.

- D. maintain the floor or surface of the recreational facility in proper and reasonably safe condition;
- E. if the recreational facility is located in a building or includes a building, maintain in good and safe condition the areas of the building open to recreational users;

policy

BOARD OF SCHOOL TRUSTEES
SCHOOL CORPORATION

PROPERTY
7510.01/page 6 of 7

- F. maintain equipment in good mechanical condition;
- G. comply with all applicable State and local fire safety codes, building codes, and other safety codes applicable to a recreational facility;

Recreational users have the following duties:

- A. Maintain reasonable control of the recreational user's speed and course at all times.
- B. Use due care while operating or using equipment.
- C. Heed all posted signs and warnings.
- D. Maintain a proper view to avoid other recreational users, individuals, and objects.
- E. Accept responsibility for knowing the range of the recreational user's ability and using the recreational facility within the limits of the recreational user's ability.
- F. Refrain from acting in a manner that may cause or contribute to the injury of the recreational user or any other individual.

Recreational users are considered to have knowledge of and assume the risks of using the recreational facility.

For purposes of this policy, risks of using a recreational facility include the following:

- A. Injuries that result from collisions or incidental contact with other recreational users or other individuals who are properly present at the recreational facility.
- B. Injuries that result from falls caused by loss of balance.

policy

BOARD OF SCHOOL TRUSTEES
SCHOOL CORPORATION

PROPERTY
7510.01/page 7 of 7

- C. Injuries that involve objects or artificial structures that are not otherwise attributable to an operator's breach of the operator's duties or responsibilities under this policy.
- D. Injuries that result from the recreational user's violation of the recreational user's duties listed above.

Unless an operator violates the operator's duties or responsibilities, the assumption of risk set forth above is a complete defense to an action against an operator by a recreational user for injuries and property damage resulting from the assumed risks.

The measures taken by the Board in this policy to implement the limitation of liability permitted by I.C. 34-31-10 and I.C. 34-31-11.4 are not intended to be an election of a defense or a waiver of any other defense or limitation on Board or employee liability.

I.C. 34-6-2-91; Definition of operator
I.C. 34-6-2-129.4; Definition of recreation
I.C. 34-6-2-129.5; Definition of recreational facility
I.C. 34-6-2-129.6; Definition of recreational user
I.C. 34-13-3; Immunity of governmental entity or employee for tort claims
I.C. 34-13-4; Personal civil liability under civil rights laws
I.C. 34-31-10; Limited liability arising from the public use of school facilities for physical fitness activities
I.C. 34-31-11.4; Limited liability for operators of recreational facilities