

# M3 Risk Watch

Safety: It's No Accident



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## The Importance of Facility Use Agreements

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**Simply stated, any organization or outside group using your school facilities (gym, pool, auditorium, classroom, etc.) or grounds should sign a facility use agreement or recreational use agreement.**

A recreational use agreement (which is defined by Wisconsin Act 162) is a written authorization granted by the school district to a person that permits public access to school grounds for a recreational activity. It must include: a description of the recreational activity or activities to be held on the school grounds pursuant to the agreement; the time and place of the recreational activity or activities any eligibility requirements for participation; whether and, if so, to what extent participants who are minors will be supervised; and a clear statement describing a participant's assumption of risk. The recreational use agreement would not apply to the use of swimming pools, weight rooms or gymnastic equipment. If the activity does not meet the requirements of a recreational use agreement, a facility use agreement should be used.

The facility use agreement outlines the responsibility of the school and the organization/group using your facility. It also requires the organization to provide evidence of insurance coverage and list your school as an additional insured on the general liability policy if the group is covered by a facilities use agreement. This creates a layer of primary protection for the school in the event of a claim.

Facility use agreements should be used for meetings, luncheons, conferences, concerts, or other special events that take place on school property. In general, there are two types of facility use agreements that will involve your school:

- Outside groups asking permission to use your school's facilities or property.
- Your request to another school or nearby business to use their facilities or property during an emergency such as an evacuation.

If an outside group requests use of your school facilities or property to host an activity or event, consider the following controls:

- As a general rule, insurance should be required for any event that is deemed high-risk to your school. This includes but is not limited to the rental of a school's recreational facility (excluding use of its meeting room) for outdoor activities and overnight activities. Meetings, luncheons, etc. will ordinarily not require proof of insurance.
- Develop clear guidelines regarding the type of activities or groups that can use your school's facilities or property. Dangerous activities such as fireworks, the use of combustible or flammable materials, overcrowding, and the presence of dangerous animals should never be allowed in your school under any circumstances.
- No amusement rides or attractions, trampolines of any type, enclosed or air supported structures of any type, climbing walls, climbing ropes, firearms or shooting (including bow and arrow), should be allowed to be brought onto the your school premises or used in any manner.
- Before any facility use takes place, ensure a written agreement is in place that lists the parties, date and time of activities, number of people attending, the identified facility or property, and any restrictions that are to be enforced.
- The outside group (facility user) should take out an insurance policy with a reputable insurer, having an A.M. Best rating of A-, VII or better.
- The outside group(s) should agree to indemnify and hold harmless everyone associated with the school. This includes the school, school board, school board elected and appointed officials, administrators, principals, teachers and all other school employees, volunteers or representatives, and all persons and bodies' corporate acting for or on behalf of the school.
- Ensure the approved facility use applicant holds the school harmless for all accidents and incidents. The applicant should assume all liability responsibilities arising from any accidents or incidents arising from the occupancy/use of the school facility.
- The school should be indemnified in an amount not less than \$2 million for any Claims (including injury to persons or damage to property) arising out of the use of the school premises by the outside group.
- The school should be named as an 'additional insured' under the general liability policy. The outside group must provide the insurance policy or a certificate of insurance prior to use of the school facilities or grounds.

- Restrict access to your school facilities. Only those areas identified in the facilities use agreement should be available to the applicant. Use physical barriers such as gates, locked doors, or increased supervision to prevent access to restricted areas of your school.
- Consider the use of additional supervisors or security personnel if a large number of attendees are present.
- Develop your school's facility use policies and agreements with the advice of your legal counsel.



- Ensure that any furniture or equipment that is moved during use of your premises is replaced.
- A school representative should be present at any significant event and the school custodial or maintenance department should be responsible for inspection and any clean up not performed by the user(s) after the event.
- The person receiving the permit shall obtain permission from the school to decorate, using only materials acceptable to the local fire marshal. All decorations should be removed before the group leaves your school building or property.
- All decorations must be removed by the outside group before they leave your school building or property. If the decorations are not removed the school should consider a fee that addresses decoration removal.
- Reserve the right to terminate the agreement immediately by notice in writing.



- Require the outside group (facility user) to provide written notice of any incident or accident that results in bodily injury or damage to school facilities or property. This notice should be provided within 24 hours of the incident or accident. The notice must include details of the time, place, circumstances, and the names and addresses of any person(s) witnessing the accident.
- Require check in and check out procedures with your building administrator and/or maintenance supervisor.
- Never loan your school equipment to individuals or organizations unless the loan is part of the agreement for rental or use of your facilities.
- Do not rent your school facilities or equipment to any profit-making individuals or organizations for private or commercial use not directly associated with your school.
- Develop a list of facilities and classrooms that are not for rent except under special conditions.
- Clearly define the activities which will not be allowed on school property. This includes but is not limited to gambling or games of chance, and promoting any activity that damages the school.
- Clearly state that the possession or use of alcoholic beverages, illegal substances, tobacco products, and weapons in and on all the school property, including all buildings, grounds, school owned and leased vehicles, and sites leased by the school is prohibited.
- The selling or consuming of food or drink in auditoriums, gymnasiums, or other sitting areas must be approved by the school.
- The use of any special equipment must be identified in the application and, if necessary, may require personnel to operate. Any overtime compensation will be paid by the applicant.

If you would like additional information on this topic, please contact one of the education specialists listed below.

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## About M3

Founded in 1968, M3 Insurance is Wisconsin's largest privately held commercial insurance agency, providing employee benefits, property & casualty, executive benefits, employer-sponsored retirement plans and personal lines. The professionals at M3 are aligned to specialized industry groups, serving clients across the country from five Wisconsin offices.

M3 is consistently ranked in the top 1% of insurance brokers nationwide and has been named to the list of Best Places to Work in Insurance by *Business Insurance* magazine.

- The applicant should understand they may be required to provide supervision and security depending on the activity.
- Damages or destruction to any facility and/or premises is not permitted and the cost of all repairs will be charged to the applicant.
- Never allow outside groups to exceed room capacity.
- Restrict outside groups from making temporary electrical or mechanical modifications.
- Do not allow individuals into the building if they appear to have partaken of alcoholic beverages and/or illegal substances, etc.
- If your school requests the use of facilities or property of another school or nearby business in cases such as emergency evacuation, a formal written facility use agreement should be reviewed and signed by all concerned parties.

The development of effective, binding facility use agreements may require significant effort on behalf of your school. Taking the time to develop these agreements will assist in protecting the school in future general liability litigation.



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