

# Liability issues limiting recreational use of public school facilities

June 8 2010

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Encouraging physical activity is vital to positive health outcomes and is a worthwhile public health goal. Although most public schools have some recreational facilities that could be used outside of regular school hours, concerns over liability have limited their use. In a study in the July issue of the *American Journal of Preventive Medicine*, researchers reviewed the recreational use statutes in all 50 states and found that liability protections could be improved, in some cases, with minor legislative changes, consequently opening up school facilities for increased recreational use benefiting the entire community.

"The original intent of recreational user statutes was to open up, for the most part, rural and private land for public use for the purpose of recreation, a point often reflected in the statutory language of these statutes," according to lead investigator John O. Spengler, JD, PhD, Department of Tourism, Recreation, and Sport Management, University of Florida, Gainesville.

"Social values and norms within the U.S. have changed considerably since the inception of these statutes. Although the importance of recreation cannot be ignored, with evidence that [physical activity](#) plays a vital role in reducing the prevalence of obesity, the legislative intent of recreational user legislation should be reframed to include, as a stated purpose, the health promotion of communities. In addition, public schools have facilities that can help meet the physical activity needs of their surrounding communities. Statutes should therefore also reflect a legislative intent to encourage public schools to make their property

available to the public for recreational use, recognizing the importance of physical activity to health."

Forty two states have recreational use statutes that could potentially offer protection for public schools that open their facilities to the general public. Types of protected activities found in a small number of states included running and jogging, exercise, playing on playground equipment, roller-skating and roller-blading, and bicycling.

Despite the benefits to the health and physical activity needs of the community, the national prevalence of community access between 2000 and 2006 remains unchanged for youth or adult community sports teams, classes, or open gym. A number of barriers continue to exist in allowing public access to school facilities, including liability, insurance, safety, supervision, operations, and maintenance. While public schools in all states are protected to some degree by a form of governmental immunity, concern over liability is thought to be a key barrier to allowing public access to school property.

Although many schools have playgrounds, baseball/softball fields, general-purpose fields, outdoor tracks, outdoor basketball courts, soccer fields, swimming pools, fitness areas, or indoor gymnasiums, only 12 states have statutes that might provide limited liability protections specific to activities performed on these facilities. The authors found that legislation lacks uniformity and depth of coverage for active recreational activities likely to occur on school property after hours.

Spengler and colleagues conclude that "This study suggests the need for further statutory liability protections for public schools, and immunity provisions that target activities that are conducive to physical activity, common on school grounds, and popular among community residents. Empirical studies examining school administrator's perceptions relevant to liability as a potential barrier to opening school sport and recreational

facilities to members of the community outside of regular school hours is suggested."

**More information:** The article is "Policies to Promote the Community Use of Schools: A Review of State Recreational User Statutes" by John O. Spengler, JD, PhD, Michael S. Carroll, PhD, Daniel P. Connaughton, EdD, and Kelly R. Evenson, PhD. It appears in the American Journal of Preventive Medicine, Volume 39, Issue 1 (July 2010)

Provided by Elsevier

Citation: Liability issues limiting recreational use of public school facilities (2010, June 8) retrieved 23 April 2024 from <https://medicalxpress.com/news/2010-06-liability-issues-limiting-recreational-school.html>

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