

**Peer Reviewed Research**

**Accessing Minnesota School District Administrators' Knowledge and Perceptions Related to Sharing School Play Spaces After the Passage of Minnesota Shared Use Legislation**

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**Abstract**

Lower levels of physical activity among children in the United States can be attributed in part to the lack of access to safe, low-cost recreational facilities. Shared use, or a partnership allowing the community to use school recreational facilities outside of normal hours, has received increased attention. The objective of this study was to determine the extent of knowledge among school district decision makers about a law passed clarifying liability for school shared use in Minnesota and to understand perceptions held by school decision makers regarding shared use of recreational facilities. A survey of Minnesota school superintendents and other decision makers ( $N = 182$ ) was conducted to understand the issues relevant to sharing school recreational facilities with the public. The majority (90%) of respondents indicated concern about liability for injury on school property outside of normal hours, and that insurance and contracts provided the most protection from liability. Most respondents indicated they were not familiar with the Minnesota shared use legislation and its provisions (61.4%,  $n = 108$ ). Findings suggest the importance of education and training to further school superintendents' knowledge of Minnesota shared use legislation, legal and policy issues relevant to shared use, and issues related to the implementation of shared use within their districts.

**Keywords:** schools, legislation, administrators, impact, recreation, policy

The importance of physical activity is supported by evidence that relates physical activity to health (Warburton et al., 2006; Timperio et al., 2005; Wolch et al., 2011). However, the vast majority of children and adolescents are not getting the recommended 60 minutes of moderate-to-vigorous physical activity each day (Department of Health and Human Services, 2018). Additionally, there is evidence of disparities in access to places to play among people living in lower-income communities and communities of color (Cutts et al., 2009; Wolch et al., 2014; Powell et al., 2006) and among youth with disabilities (Bloemen et al., 2015; Kirchner et al., 2008). To address both disparities in access and access to play spaces overall, efforts have been underway across the United States to open and share school recreational spaces with members of the public (Burbage et al., 2014; Young et al., 2014; Howard et al., 2013). The concept of opening schools for use after hours and sharing spaces within schools and across communities is commonly referred to as "shared use."

Under the concept of shared use, local schools, parks, faith-based organizations, and other community

organizations work together to share facilities through partnerships often governed by contractual agreements (Omura et al., 2017). Schools using parks for physical education classes or recess, or youth sports leagues using school fields are examples. Additionally, schools may simply open their facilities to the community for use outside of regular school hours (Evenson et al., 2010). Sharing play spaces has proven successful in providing opportunities for youth sports, as well as creating more active communities (Durant et al., 2009; Farley et al., 2007). One study, for example, conducted in a lower-income community in New Orleans found that when a previously locked schoolyard was opened and supervised, the number of children who were physically active outdoors was 84% higher than in a community that had closed schoolyards (Farley et al., 2007). Furthermore, the sharing of spaces can be facilitated by locating sport facilities in areas that are safe and accessible via multiple transportation options, including walking, biking, and public transportation (*National Youth Sports Strategy*, 2019).

Shared use is often influenced by perceived barriers among public school administrators and coaches (Spengler et al., 2012). Many entities have failed to share some or all of their recreational facilities due to concerns about cost, staffing, supervision or security, operations, safety, insurance, scheduling conflicts, overuse of facilities, and maintenance (Howard et al., 2013; Omura et al., 2017; Spengler et al., 2012; Kanters et al., 2014; Eyler & Swaller, 2012). Fear of liability is the most common perceived barrier and the primary reason entities remain hesitant to open their schools to the public outside of normal school hours (Spengler et al., 2011). Moreover, a general lack of knowledge about shared use continues to exist among public school administrators, with many unaware of the legal protections already in effect concerning shared use (Spengler et al., 2011). Organizations such as the American Heart Association have been successful in their advocacy efforts around the passage of legislation designed to clarify liability and encourage schools to open and share play spaces with the public (Spengler et al., 2014). However, little is known about the effect of this legislation on actual shared use implementation, school district administrators' knowledge of the law, or perceptions about sharing school facilities with the public outside of school hours once a shared use law is in place. The purpose of this study was to determine the level of knowledge and awareness among school decision makers about Minnesota law designed to clarify liability and encourage shared use, barriers to sharing school facilities, and policies and perceptions related to shared use overall and liability in particular.

## Methods

An online survey of school superintendents and other district-level decision makers in Minnesota was conducted. All public school district decision makers, including superintendents, community education directors, and executive directors in the state of Minnesota were asked to participate in the study. In total, there were 461 school districts, out of which eight closed after the study started, leaving a sample of 453 potential respondents. In order to reach the study population, researchers collaborated with two professional associations representing school administrators: the Minnesota School Board Association (MSBA) and the Minnesota Association of School Administrators (MASA). MSBA and MASA were critical partners in notifying school administrators about the study and requesting their participation. These partnerships also lent significant credibility to the study and therefore encouraged school administrators' participation.

The instrument was developed by adopting survey items from prior studies assessing shared use school policies, procedures, and implementation (Spengler et al., 2012; Eyler & Swaller, 2012; Evenson et al., 2010). The instrument was reviewed by a six-member Delphi (Ziglio, 1996) expert panel from the fields of public health, law and policy; sports and recreation management; and education. The panel members examined the relevance, representativeness, and clarity of each item. The instrument had slight modifications in areas of item adequacy and

word clarity following each of two rounds of feedback from the expert panel. After receiving institutional review board approval, data were collected in November of 2012. School superintendents received a cover letter, informed consent, and survey via email. After one week, nonrespondents received a second email. A week after the second mailing, nonrespondents received a final email. A total of 184 completed surveys were submitted online from school administrators (response rate = 41%). Relying on previous literature, the researchers selected the perceived-barrier items believed to be most appropriate for this study. The final instrument included a total of 18 items. The response format for some of the perceptions items was a five-point Likert-type scale anchored by 1 = not at all important and 5 = extremely important. Items were randomly placed in the questionnaire to avoid response bias from order effect.

## Results

### Profile of Respondents

The majority of the respondents were superintendents (83%,  $n = 151$ ) while the rest (17%,  $n = 31$ ) indicated their role as "other decision maker," which included 12 people indicating they were a director of community education, a director of human resources, or an executive director. The respondents were also asked how long they have been in that position. The average length of position was 6.9 years ( $S = 6.36$ ), with a minimum of one year and a maximum of 43 years.

Regarding the grade levels the school served in their district, a large percentage (81.8%) indicated they served all grades from pre-K to high school.

### Use Levels of School Properties

Respondents to the survey were asked whether the school or school district under their control shared any of its recreational facilities with the community during non-school hours. Of the surveyed school decision makers, the majority (91.2%) replied that at least one of the schools in their district shared their facilities with the public ( $n = 166$ ). Of the schools that shared their recreation and sport facilities with the public, 61% shared their facilities for structured, supervised activities such as programs, games, or practices under a formal contract with another entity ( $n = 102$ ), while 47% shared their facilities for structured programs, games, or practices informally without a contract ( $n = 78$ ). Thirty-nine percent of respondents expressed that their facilities were used for unstructured, informal activities without contract ( $n = 64$ ), while 27% indicated facilities were shared for informal use under an agreement or contract ( $n = 45$ ). Half of the respondents (48%) indicated that it was either likely or very likely that the schools in their district would increase community access to school property during non-school hours in the next 12 months.

### Factors Influencing Decisions to Allow Shared Use

Respondents to the survey were asked to identify the level of importance of various factors influencing their decision to allow or not allow the shared use of recreational

school facilities by the community during non-school hours.

In terms of barriers to allowing shared use, the most prevalent concerns were liability concerns for unsupervised activities ( $n = 169$ ,  $M = 3.99$ ), staffing ( $n = 170$ ,  $M = 3.95$ ),

liability concerns for supervised activities ( $n = 170$ ,  $M = 3.94$ ), and insurance issues ( $n = 170$ ,  $M = 3.79$ ). Additional concerns were safety, limited availability, cost, priority of use, crime, lack of community support, and the potential of use by controversial groups (Table 1).

**Table 1. Barriers to Shared Use Based on 5-Point Likert Scale**

Concern	<i>N</i>	<i>M</i>
Liability concerns (unsupervised activities)	169	3.99
Staffing (security, supervision, maintenance, etc.)	170	3.95
Liability concerns (supervised activities)	170	3.94
Insurance	170	3.79
Facilities and equipment safety concerns	171	3.73
Limited space and facilities	170	3.72
Limited hours of availability	170	3.70
Cost of personnel	170	3.70
Priority of use issues	170	3.68
Cost of maintenance	170	3.52
Incivilities (vandalism, graffiti, etc.)	170	3.29
Drug/alcohol use	168	3.19
Fighting and bullying	169	3.09
Lack of support from school or district	168	2.99
Violent crime	167	2.97
Lack of community support	168	2.96
Might allow controversial groups to use school facilities	170	2.95

### Policies and Guidance

Decision makers were asked to indicate the amount and type of written guidance their school district had regarding the use of school facilities during non-school hours. School board policy (77%) and facility and rental request forms (67%) were the most popular selections. The next most common was joint or shared use agreements (38%), lease

agreements (33%), and school wellness policies (26%). Following these were student handbooks (20%) and joint powers agreements (19%). Less than 15% of respondents indicated they used other contracts, parent handbooks, or a directive from the principal. Few (4.6%) indicated no form of written guidance regarding shared use (Table 2).

**Table 2. Written Guidance Regarding Community Use of Recreational Facilities**

Policy Type	%
School board policy	77.1
Facility and equipment request forms	66.7
Joint use agreement	36.6
Lease agreement	33.1
School wellness policy	28.6
Student handbook	20.0
Joint powers agreement	19.4
Contract—list type(s)	14.3
Directive of principal	13.7
Parent handbook	8.0
None—we do not have written guidance	4.6
Other (please describe)	2.3
I don't know	1.7

Respondents were also asked to rank their current school or school district liability protection based on loss due to injuries. Overall, respondents thought that their

school district current liability protection for loss due to injuries was good ( $M = 4.05$ ,  $SD = .85$ ).

To better understand the importance of specific policies in terms of offering protection from liability, the respondents were also asked to rank the following on a five-point Likert scale where 1 = most protection and 5 =

least protection. The item choices were contracts, Minnesota legislation, insurance, and waivers. Insurance was the most favored option for reducing liability for the shared use of schools (Table 3).

**Table 3. Ranking of Policies Offering Liability Protection**

Type of Policy	%				
	most protective ← 1	2	3	4	→ 5 least protective
Contracts	23.8	38.4	31.1	6.7	0.0
Minnesota legislation	11.6	34.8	29.9	22.0	1.8
Insurance	62.8	17.7	17.7	1.8	0.0
Waivers	0.6	7.9	21.3	67.7	2.4
Other (please explain)	1.2	1.2	0.0	1.8	95.7

In addition, respondents were asked to indicate their level of concern about someone being injured while participating in recreational and sport activities while on school property during non-school hours. The majority (90%) expressed they were somewhat to very concerned about the potential for liability.

#### **Familiarity With Minnesota Laws About Protection From Liability**

Respondents were asked about their familiarity with the law in Minnesota that protects schools from liability when someone participating in a sport or recreational activity was injured on school property during non-school hours. The majority of school district decision makers indicated they were not familiar with the Minnesota shared use legislation (61.36%,  $n = 108$ ). Despite low levels of familiarity with the law, the majority (80%,  $n = 140$ ) of respondents indicated that no schools in their district had any lawsuits resulting from injury to people participating in recreation or sport activities while on school property during non-school hours within the past five years. A few (4%) indicated that there had been lawsuits in their district in the past five years, while 15% did not know whether there had been any lawsuits.

#### **Attitudes and Behaviors Toward the Use of School Property During Non-School Hours**

Respondents were asked to indicate whether they thought the use of school property could benefit the community's quality of life and whether it is good to have school properties available for community use. The majority (80.11%) selected that they "totally agree" shared use would increase their community's quality of life, while only 5.6% ( $n = 10$ ) thought it would not be good to allow shared use during non-school hours in their community.

#### **Discussion**

Findings suggest a lack of knowledge among decision makers about the relevant provisions of the shared use legislation, to include the important provisions regarding the clarification of liability. Only about one third of respondents were aware of the Minnesota legislation, which

was enacted over a year before the survey was administered. This finding demonstrates the need for education and training on the key provisions and liability protections of shared use. Education and training, often taking the form of toolkits and best practice documents, as well as in-person training, may be helpful in educating school administrators about legal issues, alleviating concerns about liability, and encouraging administrators in sharing their physical activity spaces with the public (ChangeLab Solutions, 2012). If known and understood, the Minnesota legislation, as well as shared use legislation in other states clarifying liability, should reduce the fear of liability for after-hours use that some experts have claimed to be exaggerated (Baker & Masud, 2010).

The prevalence of shared use (91%) was high, with most districts having at least one school within the district sharing their physical activity spaces. When broken down by type of use, the most common type of sharing by schools was for structured, supervised activities such as sports games or practices under a formal contract with another entity. Nearly two-thirds of schools indicated that they had this type of arrangement. This finding reflects the emphasis that many communities place on organized, structured sports (as opposed to free-play activities) and the role that schools play in support of organized sports.

Most districts had written guidance on shared use in the form of school board policy. Studies finding a lower prevalence of shared use in schools are typically measuring shared use at the individual school level or by specific type of shared use, such as whether schools open their grounds to the public or share with other entities by (Omura et al., 2017; Eyler & Swaller, 2012; Spengler et al., 2011; Evenson & McGinn, 2004). Shared use, however, can occur with or without a contract governing the terms and conditions of shared use. Sometimes schools share facilities or programs with community groups, for example, with only a verbal agreement or understanding. Other times schools will just open their property to the community and would not enter into a contract (shared use agreement) with individuals who use the school grounds. Notably, district-

level analysis of shared use could result in the overestimation of shared use because it is possible that only a few schools in a multi-school district might actually share their facilities with the public, while it is reported that this represents shared use within the district as a whole. Future national and state-level surveys should be specific as to the type of shared use reported when making determinations of prevalence.

Liability was a key concern for administrators. Approximately 90% of administrators responded that they were somewhat to very concerned about liability overall, and they reported liability for both supervised and unsupervised activities as chief concerns. The concern for liability is a common finding reported in similar shared use studies conducted in other states and nationally (Spengler et al., 2011; Eyler & Swaller, 2012; Omura et al., 2017). Liability was a chief concern despite the high prevalence of shared use among districts and, interestingly, a high level of confidence among administrators that liability protections were adequate. In fact, 96% of respondents indicated confidence in their school district's liability protections, rating them fair to very good. The type of liability protection rated as most important was insurance. Nearly 80% of administrators felt that insurance offered the best liability protection, while protection under contract ranked second, and legislation ranked a distant third by importance. Administrators did not perceive waivers to be valuable in protecting against liability.

An explanation for these seemingly contradictory findings (having concern for liability while also feeling that liability protections are adequate) might be that administrators' concerns about liability are more about process (e.g., litigation is time consuming, costly, stressful, and harmful to public image) than outcome (financial loss mitigated by insurance). Therefore, they may be reporting concern about liability in terms of the litigation process rather than concern about liability as it relates to financial loss.

The majority of district managers also expressed concern for liability even when few districts had encountered lawsuits in the context of injuries happening when facilities are shared or open after hours. Administrators appear to be concerned about their exposure to liability even though lawsuits are not that common in the after-school context. Perceptions of liability risk, therefore, do not match the reality of actual liability in terms of lawsuit prevalence. Concurrently, legal mechanisms that might serve to limit exposure, such as waivers, were not highly ranked in importance as a liability protection, whereas insurance, which doesn't limit exposure to liability, but instead serves to mitigate the loss related to liability, was ranked highly.

Concerns about liability might be reduced not only through education of legislative protections but also through the dissemination of knowledge on waivers and the management of risk. If concerns are in fact more aligned with exposure rather than the potential negative outcome of litigation, then fears could be alleviated through the

implementation of risk management plans to include facility safety audits, recreation and sport safety training for supervisors, and education on protections offered through waivers and contracts (Winig et al., 2015). These measures have the added benefit of potentially reducing insurance premiums.

Findings from this study also support prior results from studies finding that school administrators care about the health and welfare of the residents of their communities and are motivated to share physical activity spaces for the purpose of serving their communities (Omura et al., 2017; Evenson et al., 2010; Spengler et al., 2012). This study found that school administrators are motivated to participate in shared use of school recreational facilities for two main reasons: 1) to provide public service and 2) to build relationships in the community. Another motivating factor is providing additional opportunities for the community to be physically active. These findings suggest that for some administrators, altruistic motivations may supersede the fear of liability, particularly where insurance or other protections from loss are in place.

### Limitations

A limitation of the study is the age of the data, which was collected in 2012. However, legal systems, the prevalence of litigation, and perceptions about liability do not demonstrate appreciable change because our legal system has not changed since the collection of data, litigation remains prevalent in our society, and more recent studies have found perceptions about liability have remained a key concern among school administrators (Omura et al., 2017). While the generalizability of the findings may be limited given that this was a state-specific study, the purpose of this paper was to take a deeper dive into the liability component; to guide the development of hypotheses for future studies; and to consider ways to address liability beyond and in addition to legislation, such as through risk management strategies. Another limitation of this study was a moderately low response rate. Due to blocked email invitations, reluctance by gatekeepers to forward email invitations, time pressures placed on school administrators, and the web-based format of the survey, the response rate was limited. However, no major demographic differences were seen between those who completed the survey and those who did not. Despite the low response rate, the sample size was adequate for the statistical analyses performed. Further, a potential limitation was that 17% of the respondents were not superintendents. In some cases, it is possible that respondents serving in capacities other than the role of superintendent may not have been fully informed on the issues surrounding shared use and liability.

### Implications for Policy and Practice

Change in policy at the local level in response to state legislation is dependent on decision makers' awareness and understanding of the law at issue. Our study found that nearly two thirds of school superintendents, those potentially in the best position to have knowledge of legislation impacting schools, were unaware at the time of the study of the recently passed shared use legislation in

Minnesota. Additionally, only half of the superintendents responded that they were likely to share school recreational facilities with the public beyond what they already shared. Educational campaigns hold great potential for educating decision makers about shared use and the liability protections afforded by statute and for changing attitudes toward the shared use of school facilities. Education in the form of toolkits and classroom trainings following state-level policy implementation are likely to be most effective toward changing attitudes and behaviors among decision makers and can provide additional opportunities for physical activity in communities through the shared use of physical activity spaces.

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