

## **POLICY NO. F-01**

### **USE OF SCHOOL FACILITIES BY THIRD PARTIES**

**Effective as Revised October 28, 2010**

The following guideline of Risk Management Practices has been developed and adopted by the Board of Directors of the Organization of Self-Insured Schools ("OSS") and is effective as of the date indicated above pursuant to Article VIII of the Bylaws of OSS. Each Member District has agreed to the implementation of all guidelines of Risk Management Practices developed by the Board of Directors. The following policy shall be referred to for all purposes as Policy No. F-01.

#### **1. AGREEMENT REQUIREMENTS**

In order to contain and limit liability exposure to the SIR pool of OSS, all Member Districts in OSS shall be required to obtain an executed agreement in the form from time to time designated by the Executive Committee or Board of OSS and hereinafter designated as **Form No. F-01** from any organization or individual seeking to use any facility or grounds of a Member District.

1.1 Only one agreement shall be required for any third party user who uses the same portion of a district's facilities or grounds on a regularly scheduled basis throughout the school year. No Agreement shall be issued for longer than a single school year. At the expiration of an agreement, a new written application and agreement must be made for any renewal.

#### **2. RESTRICTIONS ON USE**

The use of each Member District's facilities or grounds by any third party shall be subject to the following requirements, limitations, and restrictions:

2.1 The Board of each Member District shall designate the portions of each and every of its public school facilities and grounds which are included in its designation of a civic center pursuant to Education Code §40041.

2.2 The Board of any Member District may grant to third parties the use of portions of such civic center upon such terms and conditions as it deems proper, subject to the limitations, requirements, and restrictions set forth in this policy for any of the purposes set forth in Education Code §40041(b).

2.3 The restrictions, limitations, and requirements set forth in this policy shall not apply to any public agency to whom the Member District is required to grant the use of school buildings, grounds, and equipment as a civic center or for mass care and welfare shelters during disasters or other emergencies affecting the public health and welfare pursuant to the provision of Education Code §40041.5.

- 2.4 If any third party use of a school facility results in the destruction of or damage to school property, real or personal, such third party shall be liable for the amount necessary to replace or repair any such destroyed or damaged property.
- 2.5 Member districts shall require any third party using school facilities or grounds to provide evidence of insurance for any liability for any injuries arising or resulting, in whole or in part, from the negligence of such third party during the use of those facilities or grounds. Such insurance shall name the Member District, its agents, and its employee's as additional insureds with respect to any liability arising from the use of the Member District's facility or grounds and contain minimum liability limits of \$1,000,000 for bodily injury or property damage arising from the use of the facility.
- 2.6 Additionally, each Member District shall require that such third party bear the cost of such insurance and the cost of defending itself against claims arising from those risks.

### 3. **DISTRICT LIABILITY**

Because the OSS Board recognizes that the liability exposure for those Member Districts who allow their facilities and grounds to be used by third parties for uses and purposes not mandated under the Education Code tends to create greater risk and exposure than the risk and exposure that exists for those districts who do not allow such use of their facilities and grounds, and further that the liability exposure is considerably greater if the Member District does not require a district employee to be present on the premises at the time of such use, the following provisions shall apply with respect to the use of grounds and facilities of Member Districts by third parties:

- 3.1 In the event that the Member District allows a non-mandated use and fails to have the required agreement provided for herein executed by any third party user prior to such party's use of the Member District's facilities or grounds, and/or fails to obtain the required insurance form from the third party user, then the Member District shall be responsible for the first Five Thousand Dollars (\$5,000) resulting from any liability relating to such non-mandated use before such Member Districts shall be able to require any SIR pool funds be applied to any liability from such use. The total liability of the SIR pool funds in such event shall be limited to Forty-Five Thousand Dollars (\$45,000).
- 3.2 The foregoing provisions for payment of specified portions of the liability by the Member District shall apply to all monetary liability incurred with respect to any claim, including specifically any costs of defense or investigation relating to such claim. OSS may advance the portion of the liability shifted to the Member District under Section 3.1 above, and in such event shall be entitled to reimbursement by the Member District.

4. **COPIES OF AGREEMENTS AND RELEASES**

A copy of all such Facilities Use Agreements shall be forwarded to OSS prior to the time of such use. In the event that such agreements are not forwarded to OSS prior to the date and time of usage, it shall be conclusively presumed that for all purposes hereunder no such documents were executed. When practical, all such agreements shall be sent to OSS by certified mail.

5. **DEFINITIONS**

5.1 For purposes of this Policy, a "Member District" means any school district which has become a member of OSS pursuant to the provisions of the OSS Agreement and Bylaws.

5.2 For purposes of this Policy, a "Third Party" means any person or entity other than the Member District providing or allowing the use of its facility.