RISING TO THE CHALLENGE OF SHARED USE

FEFPA SUMMER CONFERENCE

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Director for Planning
VOLUSIA COUNTY SCHOOLS
POLICY CONTEXT

SHARING OF RESOURCES FOR MUTUAL BENEFIT & EFFICIENCY

Statutory interlocal cooperation  Cost efficiencies
Growth management  Service effectiveness
Educational facilities  Public-private partnerships
Florida Statutes
- F.S. 163 and 1013
- HB 7069

SB Policy
- Community use of school facilities
- Fee schedule, operations & maintenance, liability
- Code of conduct & restrictions

ILA
- Joint use of school & public recreational facilities
- Programs, facilities, roles, responsibilities
VOLUSIA’S HISTORY OF SHARED USE
DATES BACK TO 1980’S WITH CITY OF PORT ORANGE

LOCAL GOVERNMENT USE OF SCHOOL FACILITIES
• Spruce Creek HS
• Silver Sands MS
• Spruce Creek ES

CO-LOCATION
• Horizon Elementary & City of Port Orange

JOINT PURCHASE & JOINT DEVELOPMENT
• Creekside Middle
### COMMUNITY USE OF SCHOOLS

<table>
<thead>
<tr>
<th>Category</th>
<th>Description</th>
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<tbody>
<tr>
<td><strong>SUMMER RECREATION &amp;</strong></td>
<td>School indoor/outdoor areas for summer recreation activities</td>
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<tr>
<td><strong>AFTER SCHOOL</strong></td>
<td>County-run extended care programs</td>
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<td><strong>“OPEN PLAY”</strong></td>
<td>Year-round recreational use in campuses with no perimeter fencing</td>
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<tr>
<td><strong>SHELTER</strong></td>
<td>Hurricanes &amp; other community emergencies</td>
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COMMON BARRIERS


2. OPERATIONS. Costs & fees. Staffing support. Supervision.


4. OWNERSHIP. Improvements & structures. Separation of powers.

5. SCHEDULING. Coordination. School programs. Parking.

SOURCE: CHANGLAB SOLUTIONS
ADDRESSING LIABILITY

PROVISIONS IN INTERLOCAL AGREEMENT

❖ Local Gov’t and School Board roles and responsibilities clearly defined
❖ Identify authorized shared-use areas
❖ Distinguish between District and School roles for communication and responsibilities
❖ Notify parties & address unsafe conditions ASAP
❖ Indemnity clauses
❖ Retention of sovereign immunity, benefits and immunities (including state cap on damages)
❖ Liability insurance policies vs self insurance
## SHARED USE IS NOT FREE

### ASSOCIATED COSTS

- Utility & energy costs, post-program repairs, insurance
- Facility conditioning, wear & tear, routine/preventive maintenance
- Support staffing & supplies — cafeteria, tech support, custodial, supervision
- Pre-program administration — fire inspection, coordination meetings

### PROVISIONS

- Rental, utility & energy fees
- Maintenance & upkeep
- Improvements & structures
- Insurance
- Support staffing & supplies
PLANNING SCHOOL SITES

SHARED USE OPPORTUNITIES
Early consideration of co-location and joint-use in school site evaluation & design

SUPPORT SCHOOL FACILITY NEEDS
Proximate public facilities allow for a smaller school site & better integration with local community

INFRASTRUCTURE & SERVICE COORDINATION
Availability of public roadways, sidewalks, utilities, stormwater facilities, storm shelters, fire, police and medical services reduce capital costs
BEST PRACTICES

Sustainable & trusting relationships are essential

Formalize agreements

Address liability

Maintain regular communication & contact

Establish processes for conflict resolution

Clarify/specify roles & responsibilities

SOURCE: CENTER FOR CITIES & SCHOOLS
FLORIDA EXAMPLES OF SHARED USE

HARRY R. FIX, AICP
Director for Growth Planning
LAKE COUNTY SCHOOLS
OSCEOLA COUNTY SCHOOL DISTRICT
CELEBRATION K-8 SCHOOL
510 Campus Street, Celebration, FL
SHARED USE - PARTNERS IN BUILDING COMMUNITY ASSETS

KATHIE EBAUGH, AICP
Director for Planning
SARASOTA COUNTY SCHOOLS
COMMUNITY ASSET PARTNERSHIPS IN SARASOTA COUNTY

Collocated Multi-Purpose Fields

Performing Arts Centers

Recreational Facilities
ILA

Public Library/Technical College

Playgrounds/Tennis Courts/Tracks

Convention Center Space
Collocated Multi-Purpose Fields

- Partner: Sarasota County Parks and Recreation
- District: Land
- County: Maintenance and Scheduling
- Shared: Construction

Status:
- Existing ILA on 1 Campus w/ 4 Fields
- Developing ILA on 2nd Campus w/ 3 Fields
Organized Athletic Sport Fields

- Partner: Sarasota County Parks and Recreation
- District: Land
- County: Maintenance and Scheduling
- Shared: Determination of Users
- Status:
  - New ILA Makes All Campuses Available
Playgrounds/Tennis Courts

- Partner: Local Neighborhoods/Sarasota County Parks
- District: Land
- Neighborhood: Clean-up and Care
- County: Scheduling, Construction, Maintenance

Status:
- Facilities Open Unless Neighborhood neglects campus
- Establish ILA for Tennis Courts at Pineview School
- Developing ILA for Pickleball Courts at Venice Middle
Performing Arts Centers

- Partner: Local Municipalities
  - District: Land, Construction, Maintenance
  - Municipality: Funds, Scheduling
  - Shared: Management Oversight/Organization

- Status:
  - ILAs Adopted, Construction Complete
  - VPAs at Venice High and North Port High Operational
Public Library/Technical College

- Partner: Sarasota County Library System
- District: Land, Construction, Maintenance
- County: Library Operations
- Shared: Design and Funding

Status:
- ILA for Construction Adopted
- ILA for Maintenance/Use Underway
- Scheduled Opening: October 2017
Conference Center/Culinary Arts

- **Partner:** City of North Port
- **District:** Land, Construction, Maintenance, Operations
- **County:** Construction Funds
- **Status:**
  - **ILA Adopted**
  - **Under Construction:** October 2017
10 Keys to Effective Governmental Partnerships

- Good ILAs Make Good Partners
- Build Trust—Create Wins
- Recognize Community Demand
- Determine Primary User Needs
- Address School Campus Concerns
- Establish Realistic Funding/Budget
- Determine Responsible Parties
- Create a Living Document
- Ensure Update ILAs with Major Changes
- Provide Open Lines of Communication
What’s not to like about making more effective and efficient use of public investment in facilities to the benefit of our communities?

Why are the attorneys such killjoys?
Potential Barriers to Joint Use of Governmental Facilities

- School districts have a duty of reasonable care to ensure student safety at common law and a more detailed duty pursuant to statutes (Jessica Lunsford Act). They also have a duty to take reasonable steps to prevent injury to those using their facilities. No individual liability unless bad faith or malicious intent.

- How can that be assured when persons not under the control and supervision of the school district are allowed access?

- Damage or destruction of school facilities or fixtures by shared users: Who pays, and who does the work to fix it?

- Wear and tear due to shared use leading to diminished lifespan and increased maintenance costs. Windfalls to school districts if all costs externalized, and undue costs if no costs are externalized. Interference with primary educational mission.
Potential Barriers to Joint Use of Governmental Facilities

- Need to modify facilities so areas can be locked off to segregate school use from shared use. Who designs and pays for the modification? What happens if someone forgets to lock the door?

- Lack of school district and local government staff with experience in negotiating these kinds of contracts and lack of legal resources to develop or review them adequately. Skills in contract and asset management.

- Lack of statute providing school districts complete immunity when they choose to share their facilities with other governments or with private entities. Some states assign liability to the user in the absence of negligence or breach of duty, or even grant full immunity to the school district.

- In short, what are the risks? who pays? Who insures? Who defends the lawsuit? Who is liable?
Local governments have home rule powers to enter into such agreements where they are not inconsistent with general law.

Mandatory to consider it. Section 163.31777: Public schools interlocal agreement must address. See also Section 1013.33(2).

(2)(g) A process for determining where and how joint use of either school board or local government facilities can be shared for mutual benefit and efficiency.

Section 1001.42: School district powers

(j) Cooperate with other agencies in joint projects.—Cooperate with other agencies in joint projects.

Section 1013.10: Use of buildings and grounds.—The [school] board may permit the use of educational facilities and grounds for any legal assembly or for community use centers.... The board shall adopt rules, regulations, or policies and procedures necessary to protect educational facilities and grounds when used for such purposes.

Section 1013.31: References how districts survey space needs of joint use facilities.

Section 163.01: Empowers a wide range of interlocal agreements between school districts and local governments allowing joint exercise of powers.
Waiver of Sovereign Immunity and Insurance

- Both school districts and local governments are subject to tort liability under Section 768.28, Fla. Stat., which caps their exposure to liability at $200,00 per claim or judgment, or $300,000 per incident. Judgments in excess of these amounts may be collectible if the Legislature enacts a claims bill, as it did this year for the first time in several years.

- Local governments may buy insurance or they may self-insure. Whose insurance applies, and when?

- Non-profits or private entities may or may not have any immunity.

- Difficulty of providing for open community use, without some entity assuming the obligations and risks attendant to that use.

- Insurance certificate and notice if insurance is interrupted

- Indemnification — sovereign immunity can be modified by contract, but most public agencies prefer not to.
Strategies for Success

▪ Examples from other Florida school districts with long experience in joint use. Confer with their staff and attorneys on lessons learned for similar types of joint use.

▪ Careful documentation of the scope of the proposed use. What facilities are affected? What time of day? What use is contemplated and by whom? The risk issues can vary in their severity based on these factors.

▪ Separation of use by time vs. separation of use by location. Facilities modifications. Modifications of security and maintenance personnel scheduled and procedures.

▪ Clear documentation of who is at risk for what and when. Consider requiring participants in joint use activities to sign waivers and releases of liability, which may limit potential liability.

▪ Cultivating support of school and government leadership, and affected community members. Liability is a cost-benefit calculation; a strong case for the benefits of joint use helps to offset additional costs and risks.