

Associated School Boards of South Dakota	NEPN Code: KG-E(1)
Sample Exhibit	

**FACILITY USE
AGREEMENT**

The District has determined that allowing _____(USER)
to use the facilities listed below would constitute a community service.

Please list the specific facility to be used:

The use of the facility listed above is for use between the hours of _____ and _____,
on _____(date).

The fee for the use of the facility shall be _____.

Regulations for use of the facility have been adopted by the school board and are attached hereto and incorporated herein by this reference.

The USER and its members, officers and employees are liable for damage to property and person that may arise as a result of the use of this facility, as provided in SDCL 13-24-20, and are liable for replacement costs to restore the facility utilized pursuant to this agreement.

SDCL 13-24-20 provides:
Use of school facilities or buses for other community or commercial purposes--
Compensation--Liability for damages. The school board may grant the use of school facilities, computers, motor vehicles, or land belonging to the school district for any purposes which it considers advisable as a community service for such compensation as it determines. The use may also include a contract with a vendor that sells soft drinks or other concessions on school property. The use may not interfere with school activities. Any person or persons or public body using such school facilities, computers, motor vehicles, or land is responsible to the school district for any and all damages that may be caused by reason of the use or occupancy. The school district is not liable for any damages which might arise as the result of such use or occupancy, including the use of school computers by students.

Pursuant to this agreement, "any and all damages" stated in the statute above shall mean replacement costs.

ASBSD sample exhibits are intended to be a guide for school districts. As is the case with any exhibit, a local school district's unique circumstances, challenges and opportunities need to be considered.

INSURANCE AND INDEMNIFICATION

- A. Notwithstanding SDCL 13- 24-20, which states that the school district is not liable for any damages which might arise as the result of such use or occupancy, unless waived by the Board, a certificate of insurance must be submitted with the application for use of a school facility. The certificate of insurance must verify that the applicant has general liability insurance for the activity with minimum limits of liability for bodily injury or death of \$500,000 per person / \$1,000,000 per occurrence, and minimum insurance coverage for property damage of \$100,000 per occurrence. Receipt by the District of such verification does not constitute and shall not be deemed a waiver by the District of the immunity for liability granted to the District by SDCL 13-24-20. By signing the facility use agreement, the individual assumes all responsibility and liability for any injury to persons, damage to school facilities or school personal property that may result from use of the facility and agrees to indemnify and hold the District, its agents and employees harmless from and against all claims and expenses for it, including attorney fees.

- B. The District shall be indemnified from any claims, demands, losses, injuries or damages to persons or property which may be sustained by reason of the use of the approved facilities together with reimbursement for any legal fees or costs incurred as a result of any such claim or demand, except liability arising from the District's own negligence.

This agreement is not valid and the facility may not be used unless this agreement is signed by the person or organization submitting the request prior to the facility use. In addition to the liability undertaken herein by the person or organization using the facility, such person or organization is responsible to leave the facility in the manner in which it was found, without exception, including without limitation that any areas used be left clean and neat and all equipment be returned in the same condition it was when the use was granted.

_____ Date
(*identify position designated by the Board)

I have read the foregoing agreement and agree with its terms. I understand that I, individually, and the organization I represent are liable for any damages, as above defined as replacement costs, caused to the facility, and any damages or injuries that may occur to any person as a result of the use of the facility.

Name of organization

_____ Date
Signature of individual or representative

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Notes: Law does not require the inclusion of the Insurance and Indemnification provision. ASBSD recommends that member districts consult with their school attorney as to whether or not to include the provision.

The Board, when considering this Exhibit, will need to determine the school employee(s) who (1) receive requests for facility use,(2) have the authority to determine the use fee pursuant to KG-E(2), and (3) authorize the use.

Adopted: 9/1/2011
Revised: 2/13/2018; 12/18/2018
Reviewed: 3/1/2012

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