# Opportunites for Expanding Joint Use in New York City

**A Policy Options Paper by the New York Academy of Medicine for the NYC Strategic Alliance for Health, September 2010**

## Contents

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Introduction</td>
<td>1</td>
</tr>
<tr>
<td>Joint Use Agreements and New York’s Legal Context</td>
<td>2</td>
</tr>
<tr>
<td>Community Access to School Spaces</td>
<td>4</td>
</tr>
<tr>
<td>Schoolyards to Playgrounds</td>
<td>4</td>
</tr>
<tr>
<td>Extended Use Permits</td>
<td>5</td>
</tr>
<tr>
<td>Take the Field</td>
<td>6</td>
</tr>
<tr>
<td>School Access to Community Spaces</td>
<td>6</td>
</tr>
<tr>
<td>Jointly Operated Playgrounds</td>
<td>6</td>
</tr>
<tr>
<td>Parks Department Recreation Centers</td>
<td>7</td>
</tr>
<tr>
<td>New York City Housing Authority Recreation Space</td>
<td>7</td>
</tr>
<tr>
<td>Community Experiences With These Opportunities</td>
<td>8</td>
</tr>
<tr>
<td>Potential Interventions to Increase Joint Use</td>
<td>9</td>
</tr>
<tr>
<td>Opportunity #1: Encourage DOE to Better Publicize Joint Use</td>
<td>9</td>
</tr>
<tr>
<td>Opportunity #2: Build Accountability for Utilization of City Joint Use Initiatives</td>
<td>10</td>
</tr>
<tr>
<td>Opportunity #3: Create an Online Catalog of Potential Joint Use Spaces</td>
<td>10</td>
</tr>
<tr>
<td>Opportunity #4: Pursue Joint Use Requirements for Public and Publicly-funded Facilities</td>
<td>11</td>
</tr>
<tr>
<td>Conclusion</td>
<td>12</td>
</tr>
<tr>
<td>References and Additional Resources</td>
<td>12</td>
</tr>
</tbody>
</table>
INTRODUCTION

Multiple studies have shown that offering people access to recreational spaces and opportunities to buy fresh fruits and vegetables is important for fighting obesity, but in low-income areas and densely-built urban environments, such opportunities are not always easy to find. One strategy for ensuring broader access to existing physical spaces is the concept of joint use, defined as the sharing of a single space by two separate entities. A joint use agreement can, for example, facilitate community access to an otherwise locked schoolyard by allowing the school to share with another public or private agency the costs and risks associated with opening the property after-hours. Typically, each party under a joint use agreement helps fund the operation and maintenance of the facilities that will be shared.

Nationally, facilitating community access to school recreation areas is one of the most common applications of joint use. In New York City, however, many schools lack their own recreation space. This context therefore presents two alternative implementations of the joint use concept. First, joint use can be used to enable schools to access a public or private recreation space that might be available, such as a city-funded park or senior center, or a YMCA gymnasium. Secondly, joint use can be used to obtain access to the grounds of an alternative City institution prevalent in low-income areas, the recreational spaces and community centers maintained by the New York City Housing Authority (NYCHA). This paper discusses both of these scenarios, as well as the more traditionally understood joint use. We provide an overview of some of the current avenues for implementing joint use in New York City and identify opportunities for expanding these opportunities.

In addition, because community-based efforts to curtail obesity also often seek to increase opportunities for area resident to access fresh fruits and vegetables. In particular, New York City’s Strategic Alliance for Health (SAH) expressed interest in knowing whether joint use could
be used to establish farmer’s markets in schools and at NYCHA facilities. We found that while this may be possible in or near NYCHA, it is not currently allowed on school grounds.

To develop this paper, the New York Academy of Medicine reviewed publicly available documents, and spoke with officials in the NYC Department of Education (DOE), NYC Department of City Planning, NYC Department of Parks and Recreation, a variety of nonprofit organizations, and several district managers for community boards.

JOINT USE AGREEMENTS AND NEW YORK’S LEGAL CONTEXT

New York State Education Law Article 9 § 414 states that local boards of education “may adopt reasonable regulations for the use of ...schoolhouses, grounds or other property...when not in use for school purposes or when the school is in use for school purposes if in the opinion of the trustees or board of education use will not be disruptive of normal school operations....” The statute specifies preference for purposes related to “instruction and the arts, welfare of the community, civic meetings, recreation, and entertainment.” The statute allows schools to charge fees. It also specifies that a for-profit entity using school spaces cannot charge for services or activities provided on school grounds.

The state legal context, therefore, permits but does not encourage or particularly facilitate joint use. New York City Schools Chancellor’s Regulation D-180 on the Extended Use\(^1\) of School Buildings, dated March 24, 2010, states that the DOE “encourages” extended use and specifies acceptable uses. Priority is to be given to all DOE programs and activities and after that to

\(^1\) Within the education world, joint use is sometimes referred to as extended use.
“community, youth, and adult group activities.” School premises may not be used for commercial purposes except for flea market operations whose primary purpose is to raise funds for the school. This effectively bars operating farmers markets on school grounds at this time.

The State statute and City regulations do not address liability. Questions of liability are subject to New York’s general liability statutes. Joint use agreements, however, can identify liability concerns and make sure they are accounted for. The National Policy and Legal Analysis Network to Prevent Childhood Obesity (NPLAN) suggests that concerns about liability tend to exceed the actual risks. Most schools’ existing liability insurance is sufficient to cover any liability issues associated with joint use. In California, community use of schools is taking place without any written agreements in many parts of the state, especially in rural and suburban areas, and especially when the use is limited to outdoor facilities.

In addition to answering questions of liability, the questions addressed through joint use agreements are typically the following:

- Maintenance – Who will keep the space in good condition?
- Operations — Who will unlock the gate? Who will supervise and run any programs?
- Cost – How will additional costs (repairs, staffing) be shared?

---

COMMUNITY ACCESS TO SCHOOL SPACES

New York City has three mechanisms through which communities can gain access to spaces on school grounds. This first is a city-managed program called Schoolyard to Playgrounds that assumes responsibility for the extended use of the schoolyard beyond regular school hours. The second mechanism is to grant extended use permits, which facilitate other organizations assuming responsibility for the use of space. The third, more limited opportunity through the “Take the Field” program, makes athletic fields available free of charge to certain community-based organizations.

SCHOOLYARDS TO PLAYGROUNDS

In 2007, Mayor Bloomberg launched PlaNYC, a comprehensive land use plan for the city. One promise of PlaNYC is that all New Yorkers will live within a ten-minute walk of a playground or park by 2012. A major initiative implemented to bring this about is Schoolyards to Playgrounds. Through this, the City plans to open 256 schoolyards to their communities for recreational use in underserved neighborhoods. The 256 schoolyards were selected based on a geographic analysis of residences and distances to parks and playgrounds. Sixty-nine of the sites were opened in 2007. An additional 80 sites were subsequently opened after renovations. Many of those renovations included a community-informed design process overseen by the Trust for Public Land. Forty-six sites are under construction and 61 are selected to be renovated in the future, though a specific date has not been set.

Generally, the yards are kept open until sunset and custodians are reimbursed by the City for the extra time they spend opening and closing the gates.
**EXTENDED USE PERMITS**

The issuing of “extended use permits” is authorized through New York City Schools Chancellor’s regulation D-180. This regulation also explains the application process: the user or community organization requiring space must approach the principal of the school at least 30 days prior to a scheduled event and complete an application. Principals are responsible for making the decision to approve or deny a permit application “based on a determination as to whether the space is available for use and the User has satisfied the requirements of this regulation.” If the proposed use is approved, the principal can begin an on-line process of applying for an Extended Use Application. Principal approval is subject to review by the DOE.

The on-line system the principals access includes a “Permit Cost Calculator” that calculates the cost of the proposed use. The cost has a standard fee structure and is based on the size of the facility, the nature of the space and the day/time of usage. The fee passes along the cost of unlocking the facility, maintenance, and security (provided by the New York Police Department School Safety Division) to the user. No fees are to be charged for activities which are authorized or conducted on behalf of the school (such as parent meetings or forums, school clubs, etc.). The regulations note that “in extenuating circumstances” (these are not specified), potential users of a space can request that the DOE fund the pass-through costs. Permission for this is granted by the Executive Director of the DOE Division of Financial Operations.

There is a provision requiring that certain users (summer camps, carnivals, flea markets, and sponsors of boxing, wrestling, martial arts and other contact sports) meet certain insurance requirements. The DOE may require that a user seeking a permit for another activity fulfill the insurance requirement, which requires a minimum liability of $1,000,000.

---

**TAKE THE FIELD**

Take the Field was a public-private partnership launched in 1999 with foundation grants, private donations, and public money to refurbish 43 public school athletic fields. While the organization is no longer active in the renovations of fields, it did make an agreement with the DOE, codified in Chancellor’s Regulation D-180, whereby designated fields belonging to schools are available free of charge to nonprofit organizations approved by Take the Field.¹

**SCHOOL ACCESS TO COMMUNITY SPACES**

New York City schools often lack sufficient recreational space. Jointly Operated Playgrounds are one mechanism for addressing this shortfall. More recently, the City has begun to make Parks Department recreation centers available as well.

**JOINTLY OPERATED PLAYGROUNDS**

Jointly Operated Playgrounds (JOPs) belong to the NYC Department of Parks and Recreation but are made available to nearby school facilities that either lack outdoor recreation space or have requested to use the playground facility. Under a memo of understanding that dates back to the 1950s, schools are permitted to use these facilities during school hours. During the school day, the school is responsible for supervision and maintenance. After hours, the Parks Department takes over that responsibility. A disadvantage of these arrangements is that community members who are not in school, such as toddlers, lose access to the playgrounds during school hours. There are 269 JOPs across the city available to 25% of the city’s elementary and middle schools (37 in Manhattan; 43 in the Bronx; 91 in Brooklyn; 82 in Queens; and 16 in Staten Island).

---

¹ For approval, organizations can contact Michelle Perez at [michelle.b.perez@gmail.com](mailto:michelle.b.perez@gmail.com).
PARKS DEPARTMENT RECREATION CENTERS

The Parks Department runs 53 recreation centers throughout the five boroughs and each one offers free membership to youth under 18 years old. Because these centers are underutilized during the school day, the DOE and Parks have agreed to work toward improved communications between the recreation center directors and principals of nearby schools. As of the close of the 2009-10 school year there were 20 collaborations. The departments are planning to further publicize and facilitate these arrangements in fall 2010 so that more principals and directors are aware of the potential for these arrangements.

NEW YORK CITY HOUSING AUTHORITY RECREATION SPACE

Similar to accessing public schools, it is possible for outside groups to rent the indoor and outdoor recreational space available in NYCHA housing developments, such as the NYCHA community and senior centers. There are 136 community centers in NYCHA developments, 70 of which are operated by NYCHA and an additional 66 operated by community service partners.

The group served by a proposed program must be composed of a minimum of 51% NYCHA residents. Proposals from outside groups are reviewed to determine whether the proposed use will be beneficial to the residents and fit the needs and interests of the housing complex. If a proposal is deemed acceptable, NYCHA next determines if the proposed use requires a lease, license, or temporary license. In most cases, the organization will have to submit an application including its annual report and audited financial statements. The application is reviewed by the Mayor’s Office of Contracts. Spaces in NYCHA have been used both for recreational/physical activity opportunities and for events like farmer’s markets that increase access to healthy foods for area residents.
COMMUNITY EXPERIENCES WITH THESE OPPORTUNITIES

The DOE reported to us that the process for obtaining Extended Use agreements is intended to be clear and uniform. However, it appears that many principals are not familiar with the process and that the process is not always clear to community groups, especially smaller groups with less experience negotiating such agreements. One group, for example, mentioned they asked the principal about schoolyard access and the principal referred them to the custodian who referred them back to the principal.

While the Chancellor’s Regulation D-180 “encourages” extended use, there is no evidence that the Department actively encourages principals or educates them about its value. One group, for example, reported to us that principals were reluctant to enter into an agreement with their organization due to concerns about vandalism. This fear may be well-founded, but according to our informant, was not being weighed against equally valid community needs. The DOE does not collect data on how many principals enter into extended use agreements or how many agreements each school has.

Community groups expressed concern that the fees for using school facilities are going up due to budget constraints. Many groups find the fees to be major barriers. The Division of School Facilities reported to us fees that have not been increased since 2006. This apparent discrepancy may warrant further investigation to either address errors in the fees being charged or errors in perception.

Several District Managers of Community Boards and DOE representatives we contacted agreed that the Schoolyards to Playgrounds initiative is generally working very well. There are sometimes complaints or concerns raised by the community about noise, vandalism, crime, or loitering in the schoolyards. However, the custodians, principals, the police department and members of the community have generally been able to work together to find solutions. For
example, a basketball court may be relocated to an area of the playground that is farthest away from residential housing, or some yards are closed earlier than others to address concerns from the community about loitering or noise. However, it is impossible to please all parties. One group complained that because the schoolyards are divided up for many uses, there is often not enough space for a particular organized sport. In other words, there may be a half-court for basketball.

We heard reports that some schools are keeping JOPs playgrounds closed after hours and are therefore not allowing them to revert to community use. The DOE commented that this does not happen.

**POTENTIAL INTERVENTIONS TO INCREASE JOINT USE**

We discuss below four opportunities for addressing some of the concerns we heard and expanding utilization of joint use in New York.

**OPPORTUNITY #1: ENCOURAGE DOE TO BETTER PUBLICIZE JOINT USE**

There appear to be many principals and community groups that are not fully aware of joint use procedures. The DOE could be encouraged to implement an education campaign for principals, custodians, and community groups that emphasizes that these agreements are encouraged and to publicize the process, fees, and requirements for entering into extended use agreements. Alternatively, identifying ways to give principals and schools credit for implementing joint use agreements may spur interest in the concept. The Quality Review Report and other assessments could offer credit or otherwise acknowledge instances where schools offer opportunities for physical activity after school hours or have joint use agreements in place. The Strategic Alliance for Health’s new School Wellness Awards could also incorporate this criteria.
The SAH could also contribute toward an educational effort by developing a simplified guide for community organizations that explains how to apply for extended use.

**OPPORTUNITY #2: BUILD ACCOUNTABILITY FOR UTILIZATION OF CITY JOINT USE INITIATIVES**

The discrepancies between agency and community perceptions discussed in the Community Experiences section may indicate a need for independent evaluation of the City’s initiatives. There do not appear to be systems in place for evaluating the utilization of or satisfaction with the JOPs and Schoolyards to Playgrounds initiatives. A JOPs audit may be warranted within a limited geographic area to determine whether there are available playspaces near schools that are not being utilized. An evaluation of the Schoolyards to Playgrounds program, even on a small, neighborhood scale, could offer insight as to whether communities are benefitting as much as they could from this effort. We obtained anecdotal indication that some community groups are having difficulty utilizing the program, but a more in-depth assessment may be warranted to advise advocates. In addition, comparative studies could be done to assure that the City’s programs are being implemented equitably. A study could determine whether, for example, schools in low-income areas are as likely as schools in higher-income areas to have access to playspace either through joint use or on-campus facilities. These assessments could then be used by advocates and City agencies to help increase the programs’ responsiveness to community needs.

**OPPORTUNITY #3: CREATE AN ONLINE CATALOG OF POTENTIAL JOINT USE SPACES**

One step toward expanding the joint use of spaces in New York City may be to develop an online, centralized list of spaces that could be made available for recreation and for increasing access to healthy foods. A frequently-updated, online list could include both public spaces (senior centers, NYCHA recreation centers, parks, etc.), as were addressed in this paper, as well as private spaces, like health clubs, church basements, catering facilities, and other larger
indoor and outdoor areas. Given the building density of New York, crowdsourcing such a list (i.e., relying on a call for public participation via the internet) may be a good strategy for both information-gathering and updating. Crowd-sourcing could also build awareness of the benefits of joint use.

Some successful joint use agreements have relied on untraditional spaces. The Park Slope Armory in Brooklyn, for example, is the site of an indoor recreational space with free access for local schools between 10:00 am and 2:00 pm each weekday and with free or low-cost access to community youth. The City is responsible for capital expenses and the YMCA is responsible for operations. Additional creative partnerships might be generated with a publicly-generated and publicly-available list.

**OPPORTUNITY #4: PURSUE JOINT USE REQUIREMENTS FOR PUBLIC AND PUBLICLY-FUNDED FACILITIES**

New York allows joint use, and the language in the Chancellor’s regulation encourages joint use of school facilities, but many states (Alabama, California, Hawaii, Indiana, Maryland, Maine, Ohio, and Utah) have statutes that *require* joint use of certain facilities or require accommodation of requests for joint use. A statute along these lines could be proposed for New York State, or could be pursued with the New York City Council.

A similar approach would be to require joint use for any future construction. California’s Office of Public School Construction granted $190 million to schools for the construction of facilities with the understanding that they would be jointly used by schools and communities. Schools must partner with a community organization or a public entity other than the schools. Partners must agree on sharing capital and operating costs, and on responsibilities for operation and staffing. An example of a successful partnership is the Garvey Elementary School District and the City of Rosemead jointly applying for funding to construct gymnasium that would be available to the schools during the school day and the community at-large at no cost after the school day.
Advocacy efforts pursuing either of these strategies would likely benefit from evidence demonstrating that the current joint use scheme in New York City or State has left significant gaps and/or disparities.

CONCLUSION

New York City has multiple established processes for facilitating joint use of school and NYCHA-based spaces. At the same time, there are potential statutory changes that could be made to bolster the current framework for implementation of joint use. Independent assessment and additional information-gathering may both help enhance the existing administrative processes and provide a basis for a campaign toward statutory changes.

REFERENCES AND ADDITIONAL RESOURCES

Active Living By Design (www.activelivingbydesign.org) was established by the Robert Wood Johnson Foundation at the North Carolina Institute for Public Health and is devoted to ensuring that communities have easy and affordable access to physical activity and healthy food. The organization promotes joint use and occasionally focuses on issues related to joint use, e.g., 

Active Living Research (activelivingresearch.org), also established by the Robert Wood Johnson Foundation, is devoted to providing the research to understand how environments and policies influence active living with a particular focus on low-income and high-risk communities. The website provides a resource search for policy papers, academic research, reports and evaluations on a variety of topics, including joint use.

Alliance for a Healthier Generation (www.healthiergeneration.org) works to combat childhood obesity through increasing understanding of and opportunities for healthier food and greater
physical activity. The website has some tips on joint use
(http://www.healthiergeneration.org/schools.aspx?id=4413&terms=joint+use) and case studies
(http://www.healthiergeneration.org/schools.aspx?id=4376)

KaBOOM! (kaboom.org) is a national organization devoted to creating great playspaces through
research, policy, community engagement and advocacy.

National Policy and Legal Analysis Network to Prevent Childhood Obesity
(www.nplanonline.org) is a subsidiary organization of Public Health Law and Policy
(www.phlpnet.org) focusing on childhood obesity and provides focused legal research, model
policies, fact sheets, toolkits, training and technical assistance to explain legal issues related to
public health. The web site has a toolkit on joint use, model joint use agreements, a 50-state
survey of policies on joint use, and a 50-state review of liability issues related to joint use. Their
New York memo is available at

Safe Routes to School National Partnership (www.saferoutespartnership.org) is a network of
more than 400 nonprofit organizations, government agencies, schools and professionals
collaborating to ensure that students can walk or bike to school safely and promoting safe
spaces for physical fitness. The website has a background paper on Joint Use Agreements
(http://www.saferoutespartnership.org/state/bestpractices/jointuse).

Trust for Public Land (www.tpl.org) is a national nonprofit devoted to conserving land for
recreation. The Center for City Park Excellence focuses on recreation space in cities more
successful through the innovative renewal and creation of parks and has been involved in many
of the renovations of NYC’s Schoolyards to Playgrounds initiative.