LEGAL ISSUES IMPACTING SCHOOLYARD GARDENS

Mary Marrow
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SCHOOLYARD GARDEN CONFERENCE
MINNESOTA LANDSCAPE ARBORETUM

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- Legal research
- Policy development
- Publications
- Trainings

We don’t:
- Direct representation
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KEY LEGAL ISSUES

1. Liability related to garden food and activities
2. Risk management for school gardens
3. Governmental immunity for schools
4. School wellness policies
5. Using school garden produce in the cafeteria
6. Curriculum standards
1. **LIABILITY: GENERAL**
WHAT IS LIABILITY & WHY DOES IT MATTER?

Liability: civil responsibility for an injury that occurred based on your action or inaction.
ELEMENTS OF LIABILITY

1. Duty of care.
2. Breach of duty.
3. Injury.
4. Causation.

TORT: A CIVIL WRONGDOING.

The action that exposes you to liability concerns. A person injured in tort can sue for damages related to their injury.
LIABILITY AND SCHOOLYARD GARDENS

- Physical Injury from Garden Activity
- Injury from Food Consumption
LIABILITY: PHYSICAL INJURY FROM GARDEN ACTIVITY
LIABILITY: PHYSICAL INJURY FROM FOOD CONSUMPTION
2. **RISK MANAGEMENT AND BEST PRACTICES**

- Education/Training
- Good Planning
- Garden Safety Protocols
- Good Policy Drafting
- Waivers
- Contracts
- Insurance
3. Governmental Immunity

Who is covered?

- Municipalities
  - School districts
  - Cities
  - Counties.
- Employees, officers, or agents within scope of employment
  - Can include volunteers

Not covered:

- Independent contractors
- Those acting outside the scope of their employment
Immunity: Things the Courts Look For

- Written Policies
- History of Accidents
- Complaints or Comments about Safety
- Results of Safety Inspections
- Common Usage
- Existing Standards
Municipal Tort Caps (see Minn. Stat. §466.04)

- Limit Liability Exposure
  - $500,000 per individual
  - $1,500,000 per event
- Exceptions exist
4. **School Wellness Policies**

Photo courtesy of Columbia Heights School District
School Wellness Policies

533.1 Wellness

I. Purpose

The purpose of this policy is to assure a school environment that promotes and protects students’ health, well-being, and ability to learn by supporting healthy eating and physical activity.

E. School Gardens

1. To the extent funding is available and as approved by the school board, the school district will support the use of school property to promote nutrition, physical activity, and curricular and co-curricular activities through school gardens. The school district will support the sustainability of school gardens through activities including, but not limited to, fundraising, solicitation of community donations, use of existing resources, and allocation of school district funds.

2. School gardens give students the opportunity to experience planting, harvesting, preparing, serving, and tasting self-grown food that reflects the ethnic and cultural diversity of the student population. The school district supports the incorporation of school gardens into the standards-based curriculum as a hands-on, interdisciplinary teaching tool to influence student food choices and lifelong eating habits.
5. Integrating School Garden Food into Federal School Nutrition Programs
USING GARDEN PRODUCE IN THE CAFETERIA

• Salad bars.
• Main dish items.
• Side dishes/a la carte.
FOOD SAFETY AND SCHOOL GARDEN PRODUCE

Follow established food handling practices

Considerations:

• Site selection.
• Using safe materials and water.
• Safe growing techniques.
• Safe harvesting techniques.
• Safe storage.
6. **Curriculum Standards**

Gardens can serve as the basis for lessons in a wide range of subjects.
ADDITIONAL RESOURCES

LEGAL ISSUES IMPACTING SCHOOLYARD GARDENS
Public Health Law Center Resource List
Schoolyard Garden Conference
Minnesota Landscape Arboretum
February 22, 2012

PUBLIC HEALTH LAW CENTER RESOURCES

“Legal Issues Impacting Farm to School and School Garden Programs in Minnesota”
Provides an overview of key legal issues involved in operating farm to school and school garden programs.

“Sample School Wellness Policy: School Gardens”
Language developed to insert into the Minnesota School Boards Association (“MSBA”) model school wellness policy.