



**Department of
Higher Education**

John R. Kasich, Governor
John Carey, Chancellor

DIRECTIVE 2017-096

October 25, 2017

RE: JOINT USE AGREEMENT BETWEEN UNIVERSITY OF AKRON AND THE BOYS & GIRLS CLUBS OF WOOSTER, INC.

The University of Akron has been granted appropriations contained in Senate Bill 310 of 131st General Assembly in the amount of forty thousand dollars. The University of Akron will use the funds to improve the facility owned by the Boys & Girls Clubs of Wooster, Inc. As required by Ohio Administrative Code section 3333-1-03, the University of Akron submitted a Joint Use Agreement for consideration and approval by the Chancellor.

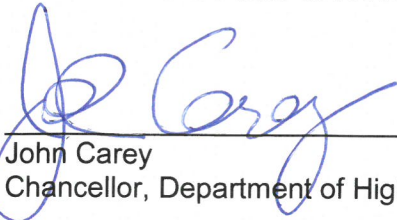
The agreement conforms to Ohio Administrative Code as follows –

- The format of the agreement is appropriate
- The commitment extends no less than twenty years
- The value of use to Ohio higher education institutions is reasonably related to the amount of the appropriation

Agency staff reviewed the agreement and posted its recommendations to the Department's website for the purpose of providing a period of public comment before final approval by the Chancellor. The materials posted for comment and the joint use agreement are attached to this document.

Based on my review of staff recommendations, I hereby approve the Joint Use Agreement between the University of Akron and the Boys & Girls Clubs of Wooster, Inc.

This directive will take effect immediately.



John Carey
Chancellor, Department of Higher Education

**JOINT USE AGREEMENT
BETWEEN
THE UNIVERSITY OF AKRON
AND
BOYS AND GIRLS CLUBS OF WOOSTER, INC.**

This Joint Use Agreement ("Agreement") is made this 8th day of August, 2017 by and between The University of Akron (the "University"), an institution of higher education and an instrumentality of the State of Ohio, created under Chapter 3359 of the Ohio Revised Code, whose address is 302 E Buchtel Ave, Akron, OH 44325, and the Boys & Girls Clubs of Wooster, Inc. (the "B&G Wooster"), a 501(c)(3) non-profit organization established to provide youth development services, whose address is PMB Box 189, 343 W. Milltown Road, Wooster OH 44691.

WHEREAS, the 131st General Assembly of Ohio enacted the FY 2016-2017 Capital Budget (Senate Bill 310), which appropriates Forty Thousand and 00/00 Dollars (the "Funds") to the University to be used for the benefit of the B&G Wooster; and

WHEREAS, B&G Wooster intends to use the Funds to furnish its renovated facility, which will provide educational, youth development and career development services to its members; and

WHEREAS, B&G Wooster each academic semester will provide to the University field experience opportunities for its students, so that they may gain practical and meaningful work experience that supplements their classroom education; and

WHEREAS, the State of Ohio capital appropriations released through the Chancellor of the Ohio Department of Higher Education (the "Chancellor") require compliance with Ohio Administrative Code 3333-1-03 (E), which specifically calls for the execution of a joint use agreement; and

WHEREAS, the University has concluded that the value of the field experience opportunities for University students at B&G Wooster is reasonably related to the amount of the appropriation, as demonstrated through the Worksheet attached as Exhibit A;

NOW THEREFORE, in consideration of the mutual benefits hereunder, it is hereby agreed between the parties as follows:

1. Facility or equipment owned, to be built or purchased by nonprofit or public body. Expenditures for equipment (furnishings) will be made by B&G Wooster, located at 343 W. Milltown Road, Wooster, Ohio 44691, and will be owned by B&G Wooster thereafter.

2. **Use of the facility or equipment by public institution.** Each standard academic semester for twenty years, after the planned renovation is complete, B&G Wooster will provide University students with the opportunity to gain necessary field experience at B&G Wooster. B&G Wooster will provide a minimum of 325 hours of field experience per year to University students. Among other opportunities, students will assist B&G Wooster with: (a) marketing/social media and the development and implementation of a comprehensive marketing plan to promote B&G Wooster programs to you and the community at large; and (b) instruction and observation opportunities associated with the field experience requirements for all education majors. The University and B&G Wooster will work together prior to each semester to assign field experience opportunities at B&G Wooster and mutually determine student schedules.
3. **Reimbursement of funds.** In the event that B&G Wooster ceases to offer the University Internship opportunities for its students prior to the expiration of the 20-year term, the state shall be reimbursed a pro-rata amount of funding received by B&G Wooster, calculated by dividing the funds by 20 and multiplying that sum by 20 less the number of full years the facility or equipment is used by the institution.
4. **Use of funds.** Funds will be used for stated capital purposes only and will not be designated to programming costs, operating costs or program supplies. The funds shall be used by B&G Wooster for capital improvements and not operating costs, and said funds shall be used as defined in the appropriations bill authorizing the funding.
5. **Insurance and Hold Harmless.** To the extent permitted by law, B&G Wooster agrees to hold the University, its officers; trustees and employees harmless from any or all obligations, expenses, liabilities, or claims of any kind arising out of (1) all construction, operating and maintenance costs of the facility to be improved by the funds distributed in this Agreement; (2) the operation of programming and services offered by B&G Wooster; and/or (3) the University, its officers, trustees or employees being named as a defendant in or party to any lawsuit or adjudicatory proceeding, if such lawsuit or adjudicatory proceeding arises out of an action or omission, or an alleged action or omission, of B&G Wooster, or their respective officers, trustees or employees, including, but not limited to, the failure or alleged failure of B&G Wooster to comply with applicable public bidding requirements or any other federal, state or local law, ordinance, rule, order, directive or regulation. This section shall not apply to any claim arising solely out of the negligence or reckless misconduct of the University, or its trustees, officers or employees. BWS annually shall provide evidence of general liability and property insurance for the shelter, with limits of no less than \$1,000,000/\$2,000,000.

6. **Compliance with federal, state and local law.** B&G Wooster shall comply with all pertinent federal, state and local laws as well as state administrative regulations.
7. **Competitive bidding.** B&G Wooster, in connection with the Project, shall, to the extent required by law, follow the competitive bidding procedures as set forth in Ohio Revised Code Chapter 153, including, but not limited to, publishing advertisements to seek bids, receiving sealed bids, and awarding contracts to the lowest responsive and responsible bidders. The University shall have the right to review and audit the records of B&G Wooster pertaining to its use of competitive bidding procedures.
8. **Appropriation administrative fee.** Upon execution of this Agreement, the University shall submit to the Controlling Board a formal request for the release of funds. Funds will be released to the University and subsequently transferred by the University to B&G Wooster after presentation by B&G Wooster to the University of requests for payment of amounts along with documentation of contractor invoices and/or purchase orders related to obligations incurred by B&G Wooster for permitted uses of the Funds. Such obligations must be properly documented to the University's satisfaction. From the Funds, the University shall receive administrative costs of Six Hundred and 00/00 Dollars (\$600), which is an amount equal to one and one-half percent (1½%) of the total amount of the funds disbursed.
9. **Amendments.** Any amendments to this Agreement require the approval by the Ohio Department of Higher Education and will be submitted to the Chancellor before any amendment takes effect.
10. **Records of B&G Wooster.** B&G Wooster shall, upon request by the Chancellor and/or the University, supply the Chancellor and/or the University with all pertinent records which measure the nature and extent of the University internships at the B&G Wooster facility, the terms and conditions governing such opportunities and the specific benefits derived by the University under this Agreement.
11. **Notices.** All notices to the parties given under this Agreement shall be in writing, sent by registered or certified mail (return receipt requested) and addressed to the parties at the addresses set forth below, or to such other address as either party shall be designated by prior notice.

Vice President for Finance and Administration and
Chief Financial Officer
The University of Akron
302 Buchtel Common
Akron, Ohio 44325

The Boys and Girls Club of Wooster
PMB Box 189, 343 W. Milltown Road
Wooster OH 44691

12. Binding Nature. This Agreement shall be binding upon and inure to the benefit of B&G Wooster and the University and their respective successors.
13. Entire Agreement. This Agreement sets forth the entire agreement of the parties hereto concerning the subject matter of this Agreement and supersedes all previous agreements, arrangements, discussions, representations, promises and understandings, whether written or oral, relating to the subject matter of this Agreement.
14. Governing Law. This Agreement shall be governed by and constructed in accordance with the laws of the State of Ohio.

The parties executing this Joint Use Agreement represent that they have the authority to bind their respective parties.

THE UNIVERSITY OF AKRON

BY: Nathan J. Mortimer 8/19/17
Nathan J. Mortimer Date

TITLE: Vice President for Finance & Admin.
Chief Financial Officer

THE BOYS AND GIRLS CLUB OF WOOSTER

BY: Christine Montelione 8/22/17
Christine Montelione Date

TITLE: Executive Director

Reviewed and approved for legal form
and sufficiency:

BY: John L. Reilly 8 August 2017
John L. Reilly Date
Associate Vice President and
Deputy General Counsel

APPENDIX A

Project: Boys and Girls Club of Wooster
 Date: _____

Section I: State appropriation information.

1. Amount of state appropriation provided: \$40,000
 2. Estimated annual debt service on the appropriation: \$3,075.05
 3. Term of the state bond, in years: _____

Section II: Estimated value of use of the facility.

Use(s) of the facility*		Annual value of use	# of years
a.	<u>Student Field Experience</u>	<u>\$ 3,250.00</u>	<u>20</u>
b.	_____	_____	_____
c.	_____	_____	_____
d.	_____	_____	_____
e.	_____	_____	_____
f.	_____	_____	_____

(* List additional uses on separate page as needed.)

Section III:

The Boys and Girls Club of Wooster are furnishing their building addition. At this site, the Boys and Girls Club of Wooster will provide a minimum of 325 hours of field experience per year to University students. Among other opportunities, students will assist B&G Wooster with: (a) marketing/social media and the development and implementation of a comprehensive marketing plan to promote B&G Wooster programs to you and the community at large; and (b) instruction and observation opportunities associated with the field experience requirements for all education majors. The University and B&G Wooster will work together prior to each semester to assign field experience opportunities at B&G Wooster and mutually determine student schedules.

The following calculations outline the annual value of work to The University of Akron:

325 hours annually x \$10/hour = \$3,250

Total \$3,250/year.