

INTELLECTUAL PROPERTY

MATERIALS PRODUCED BY SCHOOL BOARD EMPLOYEES WITHIN THE SCOPE OF THEIR EMPLOYMENT ARE THE PROPERTY OF THE SCHOOL BOARD, WHICH IS THE AUTHOR AND COPYRIGHT HOLDER AND PATENT OWNER OF THE WORK.

MATERIALS PRODUCED BY SCHOOL BOARD EMPLOYEES OUTSIDE THE SCOPE OF THEIR EMPLOYMENT AND WITHOUT THE USE OF SCHOOL BOARD PROPERTY ARE AUTOMATICALLY OWNED BY THE EMPLOYEE.

MATERIALS CREATED BY AN INDEPENDENT CONTRACTOR HIRED BY THE SCHOOL BOARD ARE THE PROPERTY OF THE SCHOOL BOARD, THE INDEPENDENT CONTRACTOR IS THE AUTHOR AND THE CONTRACT WITH THE INDEPENDENT CONTRACTOR SHALL ASSIGN THE COPYRIGHT TO THE SCHOOL BOARD AND STATE THAT IT IS COPYRIGHT HOLDER OF THE WORK UNLESS OTHERWISE AGREED UPON BY BOTH PARTIES.

MATERIALS PRODUCED BY THE SCHOOL BOARD IF REVENUE PRODUCING OR INTENDED FOR MASS CIRCULATION SHOULD BEAR THE PROPER COPYRIGHT LOGO, WHICH INCLUDES THE COPYRIGHT SYMBOL, THE YEAR IN WHICH THE WORK WAS FIRST PUBLISHED, AND THE NAME OF THE SCHOOL BOARD WRITTEN AS "THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA."

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Rules Adopted: 3/2/72
Policy Readopted: 9/5/74
Policy Rewritten and Adopted: 4/20/04

Definition Of Materials Created

Products of creative effort are to be interpreted herein as any works that come within the subject matter of copyright or patent laws, such as dramatic presentations; computer generated slides; CD-ROMs, DVDs, or other multimedia productions; distance learning courses; web sites; motion pictures; videotapes; educational software; radio scripts; television productions; lectures; books; magazine articles; printed lessons; bulletins; guides; artwork; machinery; architecture; and apparatus, now known or later developed, and others not mentioned but not to be construed as omitted.

Authority To Assign Work

The School Board of Broward County, Florida authorizes the Superintendent of Schools to assign employees full or partial job responsibility to develop educational materials, schedules, data processing programs, curriculum bulletins, and other products of creative effort which assist the basic instructional program or the various systems supporting that instructional program.

Exception

Employees of the School Board in any of the following four described categories shall not participate in State or local textbook-adoption committees evaluating for either purchase or recommendation for purchase that apparatus, book, product, or other instructional material on which the School Board or the employee holds copyright, royalty, or patent rights.

Employee Categories Defined

Employees of the School Board engaged in creative efforts are recognized as being in one or more of four categories:

Category 1

Employees hired to accomplish a certain creative effort with employment time of specific duration indicated by contract (such personnel are often legally termed "workers for hire," and the product is termed "work made for hire").

Category 2

Employees hired in a capacity which leads to creative accomplishments and with time for such being given, with the creative effort not necessarily stipulated by name or description in the contract or assignment arrangement.

Category 3

Employees who are planning to accomplish a creative effort on their own, outside of regular hours of employment, but whose creative efforts necessitate the use of School Board resources, such as duty time, classrooms, teacher, pupils, software, hardware, or other School Board property.

Category 4

Employees whose creative effort is accomplished without recourse to or use of School Board property or time, and whose created product is not a portion of normal job responsibility.

RULES:

I. MATERIALS PRODUCED BY EMPLOYEES

A. Materials Produced During Regular Hours Of Employment

All such products developed by employees in Categories 1 and 2 in the normal course of regularly prescribed duties and within the required period of duty should remain the property of the School Board, and that the School Board shall retain all rights, privileges, and responsibilities pertaining to the ownership thereof. In such "works made for hire" The School Board of Broward County, Florida shall be considered the author for purposes of ownership of copyright and the patent, owning all rights comprised in the copyright and the patent, unless all parties have expressly agreed otherwise in a written instrument signed by them. This applies to either individual or joint "works made for hire" and includes the rights of renewal of copyright as defined within the body of copyright law.

While certain personnel in Categories 1 or 2 may have extension of contracts which permit additional remuneration for residual rights to certain creative works, it shall not be a requirement for Broward County Schools to initiate such contracts in all instances, nor shall the lack of such contracts be construed to affect any claim of ownership or copyright or patent which is retained by the School Board.

B. Materials Produced Outside Of Regular Employment Time But With Use Of School Board Resources

Procedures for Category 3 Employees Using School Board Resources

Employees in Category 3, anticipating any use of School Board resources, should utilize the following procedures prior to proceeding with their creative efforts:

Prepare a notice to publish or produce and forward it to the appropriate administrator. Include the following:

- Description of creative product
- A list of School Board resources which will be involved, with estimate of time-use

- Percentage of duty time, if any, of one's normal job responsibility being devoted to development/testing of the product
- Anticipated date of production/publication

Upon review and approval of the administrator, the notice should be sent to a committee composed of a representative from the staff of the Superintendent of Schools, the Deputy Superintendent for Curriculum & Instruction/Student Support, the area superintendent or assistant/associate superintendent involved, and the Board Attorney who shall make a final recommendation to the Superintendent of Schools as to the legal interest, if any, of the School Board in such copyright or patent.

The Superintendent of Schools, upon request of the employee, may recommend release of all claims to copyright or patent rights, retaining the privilege of system-wide purchase without royalty payment; or the Superintendent of Schools will indicate in writing to the creator of the product such arrangements as are acceptable, following reasonable and customary practices.

C. Materials Produced Without Use Of School Board Property Or Time

The School Board makes no claim to ownership of products developed by School Board employees under conditions described in Category 4.

II. SALE, LEASE, RENTAL OR REPRODUCTION BY COMMERCIAL AGENCIES OF PRODUCTS OWNED, COPYRIGHTED, OR PATENTED BY THE SCHOOL BOARD

The school system does not wish to enter either the publishing or manufacturing field; however, in the event that any of the products of Categories 1 and 2 have commercial appeal, the Superintendent of Schools or an appointed designee may negotiate with the appropriate persons and agencies concerned. If any contract for payment of royalties or other compensation to the owner or to the holder of a copyright or patent is entered into, such compensations may be paid to the general fund of The School Board of Broward County, Florida; or rebudgeted in the department producing the materials to offset costs attributable to the sale, lease, rental, or production of the materials.

In the event that a publisher or other agency, in negotiation with the Superintendent of Schools or a designated representative, requests revisions or additions to be made in the product, the Superintendent of Schools or the representative, may make arrangements to have such additional work completed. If it is judged to be in the best interest of the school system, the Superintendent of Schools may assign personnel to perform this task as a part of their regular employment. In the event that revisions are not essential to the program of Broward County Schools but the producers or publishers desire to have a revision made, the Superintendent of Schools may afford the opportunity for such works to be performed by a school employee outside regular employment hours. No School Board funds shall be used to remunerate an employee for this additional work, but the Superintendent of Schools is authorized to assign to an employee by contract with the producer or publisher a fee to be paid out of royalties or a percentage of royalties depending upon the extent of revisions to be made.

If such an edition of which the copyright is held by the School Board becomes obsolete and the Superintendent of Schools does not recommend revision by Broward County Schools, the Superintendent of Schools may recommend transfer of copyright to the author(s), retaining only the privilege of District purchase for school use without royalty payment.