

PERSONNELGENERAL PERSONNEL - COPYRIGHT FOR PUBLICATION OR SALE OF INSTRUCTIONAL MATERIALS AND COMPUTER PROGRAMS DEVELOPED BY EMPLOYEESInstructional Materials

All instructional materials and computer programs developed by an employee within the scope of employment with the District shall be classified as "works for hire" and are the District's property. The District is entitled to all proceeds from the sale of such "works for hire" other than computer programs.

Instructional materials and computer programs (including written, audio, visual materials and tapes, films, and works of art) are developed "within the scope" of an employee's employment when they are developed by an employee:

- a. specifically for use in District classes or programs;
- b. in whole or in part during hours of District employment (not including lunch periods or other similar free periods);
- c. under the District's supervision or control;
- d. as a direct result of the employee's duties with the District; or
- e. through the utilization of the District's resources or facilities.

Therefore, the School District may have legal claim on all products created by its employees which in any way may be an outgrowth of their job responsibility. In order to minimize misunderstandings about the ownership of such products, the following procedures shall be followed by all employees who are or might be developing commercially attractive products which are or might be construed to be associated with their normal job responsibility:

1. A notice of intent to publish or manufacture should be filed with the person to whom the employee(s) is administratively responsible. In no case shall notification be made any later than 20 business days prior to entering into a contract for publication with a publishing firm or with a manufacturer.
2. This administrator shall then prepare a report containing the following information:
 - a. A description of the product;
 - b. The name of the person or persons involved in creating the product; and
 - c. The percentage of duty time, if any, of the person's normal job responsibility which was devoted to creating the product.
3. The report shall be filed with the office of the Superintendent.

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The Superintendent shall thereupon appoint a committee of three persons having knowledge of the product, excluding those involved in creating it, to review the report and make a recommendation for action to the Superintendent. The Superintendent shall decide to what extent, if any, the party creating the product shall share in its value. Prior to making his decision, the Superintendent will confer with the person, or persons, eligible to receive royalties to help assure a mutually satisfactory arrangement. The decision of the Superintendent shall be final subject only to appeal to the Board.

Computer Programs

School District 93 has the authority to sell or market any computer program developed by an employee of the District, provided that the employee developed the computer program as a direct result of his or her duties with the District or through the utilization of the District's resources or facilities. The employee who develops a computer program is entitled to a share of the proceeds from its sale or marketing as agreed to by the District. Neither the employee nor the District may receive more than 90% of the proceeds. The negotiation may be conducted by an employee's exclusive bargaining representative.

For purposes of this policy the following terms shall have the following meanings:

- a. "Computer" shall mean an internally programmed, general purpose digital device capable of automatically accepting and processing data and supplying the results of the operation.
- b. "Computer program" shall mean a series of coded instructions or statements in a form acceptable to a computer, which causes the computer to process data in order to achieve a certain result.
- c. "Proceeds" shall mean the profits derived from the marketing or sale of instructional materials after deducting the expenses of developing and marketing these materials, and shall be computed by the District. The proceeds of a computer program developed by more than one employee shall be equitably distributed among such employees, in proportion to their participation in the program's development, and the District.

LEGAL REF.: Illinois School Code, Sec. 10-23.10 (105 ILCS 5/10-23.10); and
17 U.S.C. Sec. 101, *et seq.*

Adopted: March 12, 1998
Revised: August 11, 2011