

**Activities****COPYRIGHT--EDUCATIONAL MEDIA****I. Assignment of Employees to Develop Educational Materials**

The School Board of Miami-Dade County, Florida authorizes the Superintendent of Schools to assign persons to positions of 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.

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 books, dramas, magazine articles, architecture, computer generated slides, motion pictures, video tapes, educational software, radio scripts, television productions, lectures, printed lessons, bulletins, guides, art work, machinery, and apparatus, now known or later developed, and others not mentioned but not to be construed as omitted.

**II. Rights of Ownership of Materials Developed During Regular Hours of Employment**

Personnel of the School Board engaged in creative efforts are recognized as being in one or more of four categories, the first two of which are applicable to this section:

**Category 1**

Personnel employed 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**

Personnel under School Board contract assigned in a capacity which leads to creative accomplishments, time for such being given, with the creative effort not necessarily stipulated by name or description in the original employment or assignment arrangement.

It is the intent that all such products developed by personnel in Categories 1 and 2 in the normal course of regularly prescribed duties and within the period that the Board requires such persons to be on duty should remain the property of the Board, and that the Board shall retain all rights, privileges, and responsibilities pertaining to the ownership thereof. In such "works made for hire" The School Board

of Miami-Dade County, Florida shall be considered the author for purposes of ownership of copyright, owning all rights comprised in the copyright, 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 addenda to their regular employment contracts which permit additional remuneration for residual rights to certain creative works, it shall not be a requirement for Miami-Dade County Public 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 which is retained by the Board.

III. Sale, Lease, Rental or Reproduction by Commercial Agencies of Products Owned, Copyrighted, or Patented by the 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 deputy 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 Miami-Dade 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 Miami-Dade County Public 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 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 Board becomes obsolete and the Superintendent of Schools does not recommend revision

by Miami-Dade County Public Schools, the Superintendent of Schools may recommend transfer of copyright to the authors, retaining only the privilege of District purchase for school use without royalty payment.

IV. Development of Products Outside of Regular Employment Time but with Use of School Board Resources

**Category 3**

Personnel who 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, or pupils;

Personnel in Category 3, anticipating any use of School Board resources, should follow these procedures.

Prepare for the appropriate region, assistant, or associate superintendent a brief report containing this information:

1. Description of creative product;
2. School Board resources which will be involved, with estimate of time-use (if involvement is sufficient to warrant, personnel in Category 3 should work through the established channels of the Educational Research Review Committee of Miami-Dade County Public Schools);
3. Percentage of duty time, if any, of one's normal job responsibility which was devoted or will be devoted to development of the product.

File notice to publish or manufacture, with dates, with the appropriate region, assistant, associate, or deputy superintendent.

The above report shall be filed with the office of the appropriate region or assistant superintendent and associate superintendent. A committee composed of a representative from the staff of the Superintendent of Schools, the Deputy Superintendent for Education, the region superintendent or assistant/associate superintendent involved, and the Board Attorney shall make a final recommendation to the Superintendent of Schools as to the legal interest, if any, of the 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 systemwide 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.

V. Products Developed Without Use of School Board Property or Time

**Category 4**

Personnel whose creative effort is accomplished without recourse to or use of School Board property or time, whose creative effort is accomplished outside of the period considered to be the time that the School Board requires such personnel to be on duty, and whose created product is not a portion of normal job responsibility.

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

VI. Employees of the Board in any of the 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 Board or the employee holds copyright, royalty, or patent rights.

Specific Authority: 230.22(2) F.S.

Law Implemented, Interpreted, or Made Specific: 119.083; 230.22(1) and (5); 233.255; 286.031 F.S.

**History: THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA**

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