

CLASSIFICATION: Administration**ADOPTED: 5/10/95****REVISED: 10/8/03****SUBJECT: Ownership of Copyrights, Patents,
Trademarks, and Servicemarks****PAGE: 1 of 3**

The County Board of Education encourages employees of the County Superintendent of Schools to create and disseminate original materials that support its adopted mission and goals. The Board acknowledges its obligation to provide access to work supported by public funds. It is the intent of this policy to promote the creation of materials for public use and benefit. These materials may be prepared in any of a variety of written, electronic, or other formats.

Original works created by employees are protected from unauthorized use or duplication by intellectual property laws. It is the intent of the County Board of Education to protect its ownership rights, to the extent permitted by law, to the materials created by employees under specified conditions. The Board directs the County Superintendent of Schools to exercise these rights when the materials employees develop are created during work hours, are within the scope of their employment, and/or are developed using San Diego County Office of Education facilities, equipment, or supplies.

To ensure the full protection afforded by law, the County Board of Education assigns to the County Superintendent of Schools responsibility for the registration of copyrights, trademarks, servicemarks, and patents, as appropriate, for materials developed under any one or more of the conditions specified above. All royalties or other revenues generated from registered ownership shall be used to support the mission and goals of the County Board of Education. The development of such materials by employees shall be approved by the County Superintendent of Schools. However, the County Superintendent of Schools' approval or lack of approval shall not affect the County Board of Education's ownership of copyrights, trademarks, servicemarks, or patents for these materials.

Materials developed under special circumstances, such as during both work and non-work hours, may be owned jointly by the employee of the County Superintendent of Schools and the County Board of Education. In such cases, the County Superintendent of Schools shall ensure that a contractual agreement is executed in advance of the development of the materials to establish joint ownership. A partnership entity may be created to hold the copyright on behalf of both parties.

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The County Superintendent of Schools may enter into contractual agreements with individuals, including employees working outside of their regular employment, with school districts, or with other entities for the creation of materials. Materials so created are considered works made for hire. Unless expressly stated to the contrary in a written agreement, copyrights, trademarks, servicemarks, or patents for works made for hire are the property of the County Board of Education.

The County Superintendent of schools shall require employees to assign to the County Board of Education rights to copyrights, trademarks, servicemarks, or patents for materials created by employees within the scope of their employment, during work hours, and/or using San Diego County Office of Education facilities, equipment or supplies.

Students in the schools and programs operated by the County Superintendent of Schools may develop original materials in the course of their instructional programs. The Board of Education respects the intellectual property rights of students and acknowledges that students are entitled to any copyrights, trademarks, servicemarks, and patents for materials developed in the course of their instructional program.

The County Superintendent of Schools shall develop and maintain administrative regulations that protect the County Board of Education's legal rights to ownership of copyrights, patents, trademarks, and servicemarks.

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Board Policy No.: 0200

Administrative Regulation Nos.: 3512, 3513

Derivation: Adopted 5/10/95. Amended and renamed 10/8/03.

Legal References: Business and Professions Code
14200-14209, 14230, 14240-14242
Education Code
1044, 1045, 17551, 32360, 32361, 35170, 60076
Labor Code
2870 - 2872
U.S. Constitution, Article I, Section 8
United States Code, Title 15
Trademark Act of 1946, effective July 5, 1946
Trademark Amendments Act of 1999, effective January 6, 1999
United States Code, Title 17
Copyright Act of 1976, PL 94-553, effective January 1, 1978
Amends Section 117, PL 96-517, effective December 12, 1980
United States Code, Title 35
American Inventor's Protection Act of 1999, PL 106-113, effective November 29, 1999

Management Resources: U.S. Copyright Office Web site at: <www.loc.gov/copyright>
U.S. Patent and Trademark Office Web site at: <www.uspto.gov/>