



Policy Title Copyright Policy	Original Adoption Date 1978	Policy Number HR-288
Responsible College Division/Department Human Resources	Responsible College Manager Title Executive Director of Human Resources	
Policy Statement		
<p><u>Ownership of Educational Materials</u></p> <p>Ownership, rights, and control of materials can fall into one of the following three categories:</p> <ol style="list-style-type: none"> 1. Total district ownership. 2. Total individual ownership. 3. Joint ownership between the district and the individual. <p>A. <u>Total District Ownership</u></p> <p>The district will have total ownership over materials and inventions which were developed through routine changes in curriculum made during the teacher's regularly scheduled workweek or work year (contract) or which were developed under district assistance. District assistance may be characterized, but not limited to, financial grants, released time, payment for travel or additional training, special assistance by other district staff, and/or other assistance wherein the district employees are offered reasonable time for preparation of the materials while in the employment of the district. In this instance, the district shall retain all rights, controls, and profits.</p> <p>B. <u>Total Individual Ownership</u></p> <p>Total individual ownership shall result when staff members develop materials or inventions over and above their work assignment and at their own expense. This would include all materials developed over and above the individual's normal, professional work assignments and without the use of district facilities, personnel, equipment, or supplies. In said instance, the copyrights and royalties of said materials are the property of the individual, provided however, that the individual employee shall receive no profits from the resale of said materials to students of the district within the scope of any of its instructional programs, courses, or services.</p> <p>A staff member may, by advance arrangement with the Vice President of Instruction, purchase or rent certain services of the district and thereby retain full ownership.</p> <p>C. <u>Joint Ownership</u></p> <p>Joint ownership of materials and inventions shall occur in instances where in both the district and the individual have made a contribution to the development of the materials. The district's contribution may include, but is not limited to, released time; additional paid curriculum development time; use of support staff, facilities, and equipment; travel reimbursement; additional training; and/or use of district supplies. The individual's contribution may, in addition, also include his/her time and expertise.</p>		



Materials which are developed, in part, within the normal course of preparation for instruction and during the individual's regularly contracted workweek are done so at district expense; and therefore, the district would have joint ownership of those materials.

Prior to beginning the development of materials, the developer, his/her immediate supervisor, the division supervisor, and the Vice President of Instruction determine the degree of both the individual's and the district's participation. The degree of participation of both parties shall be mutually agreed upon in writing and approved by the Vice President of Instruction before development begins. These same provisions shall apply in instances where an individual may be assembling previously developed materials for publication or patent.

Control of Use

Internal use of inventions or materials will be without charge to the district. The district personnel involved in the origination and the production of these materials should have his/her contributions explicitly recognized and noted.

The district may distribute jointly owned materials on a temporary-loan basis to other nonprofit organizations, institutions, or consortia as part of any reciprocal exchange agreements. Materials developed totally with district support may be distributed or used externally at the discretion of the district.

The individual maintains all rights and controls over the use of individually owned materials, with the exception that he/she shall derive no profits from the rental or resale of materials used by students.

Profits

The individual and the district will share proportionately in the profits derived from jointly-owned materials. The individual will obtain the total profits derived from the sale or rental of individually-owned materials except those used by students within the district. The district will obtain the total profits derived from the sale or rental of district-owned materials.

Establishing Rental or Resale Rates

In instances of joint ownership, rates for rental or resale will be established at a mutually agreed upon figure between the individual developer and the manager of Instructional Systems and any others that they may determine to be of value in fixing a price. These rates shall be approved by the Vice President of Instruction.

Distribution of Materials to Students

Materials may either be distributed to students as classroom handouts on a no-cost basis or may be sold through the district's bookstore at a rate of cost plus most current bookstore markup. Larger bound materials will most generally be sold through the bookstore.



Student Use of Educational Materials

Under no circumstances will any student audiotape or videotape a lecture or instructional activity or take verbatim written notes to sell on a commercial basis.

Revision of Jointly-Owned Materials

Revision of jointly-owned materials may take place at any time and be initiated by either the individual or the district. In instances which require no special budgetary considerations, the individual should obtain the approval of his/her division supervisor prior to undertaking the revision. In cases which do require the expenditure of additional district funds, the developer, his/her division supervisor, and any others the supervisor might identify shall meet with the Vice President of Instruction to determine the extent of district and individual contribution received. This shall be mutually agreed upon in writing and approved by the Vice President of Instruction before revision begins.

Clearance of Copyright Infringement

Before any use is made of the materials, the developer will certify, in writing, to the Vice President of Instruction that, to the best of his/her knowledge, the materials do not infringe on any existing copyright, legal, or privacy rights of others.

Releases

The developer shall be responsible for obtaining appropriate written releases from individuals identifiable in or in some manner requested to participate in the creation of materials.

Copyright and Patent Application Procedures

In the instances where the ownership of materials and inventions has been determined to reside with the district, appropriate application forms and assignments will be completed by the developer and forwarded to the Vice President of Instruction office for proper legal action.

In the instances where the ownership of materials and inventions has been determined to reside with the developer, the developer will be solely responsible to file appropriate applications; and all costs will be borne by the individual.

Transfer of Rights

The district or the developer may, at its discretion, assign, transfer, lease, or sell all or part of its legal rights to inventions or other materials. A first option to purchase or transfer must be granted to the other party at an amount not more than the fair market value of the materials or inventions.



District Use of Income--Foundation

The district's share of income derived from equity in any materials and inventions will normally be applied to the foundation unless other purposes are deemed more appropriate by the district administration.

This income will be utilized to finance educational research, curriculum development, and programs that assist in the development and improvement of instruction in keeping with the district's goals and objectives.

Return of Records

On termination of employment with the district, the employee shall deliver all records, notes, data, memoranda, models, and equipment of any nature that are in the employee's possession or under his control and that are the property, in whole or part, of the employer or that relate to the employment or business of the employer. In the event that said materials are jointly owned, a copy of said materials shall be considered sufficient compliance.

Cooperation and Disclosure

Each employee will promptly disclose and assign to the district every invention, product, process, apparatus, or design which the employee may invent, originate, or discover while receiving either total or partial district assistance. Employees will fully cooperate with the district in applying for and obtaining, pursuant to the terms of this policy, patents or copyrights with respect to said inventions, products, processes, apparatuses, or designs to secure protection. The employee will promptly execute all proper documents presented to him for signature by the district to enable the district to secure such protection and/or transfer legal title therein to the appropriate party or parties.

Duplication of Copyrighted Materials

It is the responsibility of the individual staff member who desires duplication of copyright material (printed, visual, or recorded) to:

1. Ensure that the use falls within the law's "fair use" guidelines or is within the "safe harbor" designation; or
2. Request and receive permission for duplication from the copyright holder.

The letter from the copyright holder granting permission or the purchase order buying duplication rights will be attached to the request form for duplicating services when it is sent to the College Copy Center or College Bookstore.

All video and audio copyright release forms will be forwarded to the Lakeshore Technical College's Vice President of Instruction for filing and validation of copyright restrictions.



Reason for Policy

It is the purpose of this policy to:

1. Clarify and protect the respective rights and responsibilities of the individual and the district and encourage the development of new educational materials and inventions; and
2. Facilitate agreement between the district and the individual as to the determination of ownership, rights, copyright, profits, and use of all materials, whether instructional or non-instructional; and
3. Ensure that staff requesting duplication services or reproduction copies for instructional purposes individually will comply with provisions of the copyright law as it relates to copyrighted printed and audiovisual materials.

Historical Data, Cross References and Legal Review

Created/Adopted: 1978

Reviewed/Revised: 5/18/89; 8/15/90; 2/20/91; 5/92; 5/19/93; 11/1/95; 7/1/02; 2/25/03; 3/26/13; 4/24/2018

Legal Reference: PL 94-553

Cross Reference:

Legal Counsel Review and Approval: 2013

Board Policy: III.A. General Executive Constraint, III.B. People Treatment, III.C. Compensation and Benefits

Definitions