

# ADMINISTRATIVE PROCEDURE

SAN DIEGO UNIFIED SCHOOL DISTRICT

NO: 7037

PAGE: 1 OF 3

CATEGORY: **Personnel, Staff Ethics**

EFFECTIVE: **11-1-65**

SUBJECT: **Copyrights and Patents**

REVISED: **7-13-2001**

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## A. PURPOSE AND SCOPE

1. To outline administrative procedures governing copyrights or patents on district-related activities by district employees.

## B. LEGAL AND POLICY BASIS

1. **Reference:** Board policy: F-5001; Education Code Sections 32360, 32361, 35170.
2. **Legal Considerations.** Teachers may receive royalties or other compensation from publishers or producers of instructional materials written and prepared by the teacher and adopted or purchased by the State or any school district, provided such materials did not involve the use of school-district funds or the regular work time of any employee (Education Code Sections 32360 and 32361).

## C. GENERAL

1. **Originating Office.** Suggestions or questions concerning this procedure should be directed to the Office of General Counsel, Office of the Superintendent.
2. **Ownership of Copyrights and Patents by Employees.** When the time, effort, and expense of a creative development are clearly and *substantially* those of a district employee or a group of employees, and the creative development was based on their own idea and on their own time while not under district supervision or assignment, such employee or group of employees may apply for a copyright or patent exclusively in their own name and at their own expense. Rights and privileges of the employee(s) and the district are defined under current United States copyright and patent laws.
3. **Copyright or Patent by the District in Its Own Name.** When creative development was accomplished by a district employee, or group of district employees, under district assignment and administrative supervision, and the cost of development was borne by the district, the district may apply for a copyright or patent in its name. Rights of the parties are defined in current United States copyright and patent laws.
4. **Notice of Intent to Copyright or Patent.** When the ownership of copyrightable or patentable items is in doubt, the procedure set forth in Section D. shall apply.

5. **Use of District Name.** Name of the district may not be exploited for personal gain by any district employee or group of employees in connection with the public use, promotion, or sale of a copyrighted or patented item unless the district has given written permission.

#### **D. IMPLEMENTATION**

1. **When ownership is in doubt:**

- a. **Applicant**

- (1) *Prior* to expenditure of time, effort and expense (if possible), and in any event prior to affixing a copyright notice to working papers and drafts of materials, submits a memorandum to appropriate division head outlining the intent, including:
    - (a) Employee name and position.
    - (b) Brief description of material or item developed or to be developed.
    - (c) How and where item or material was or will be developed.
    - (d) Names of all individuals who helped or will help in the development.
  - (2) Requests approval to append a copyright notice to working papers and associated materials, and to submit a formal application upon completion.
- b. **Division head** shall indicate approval, disapproval, or conditions that assure district compliance with the law. If employees of other divisions will participate in development, approval of other division heads concerned shall be obtained.
  - c. **Applicant**, if request is approved, proceeds with work on his/her own time and expense, leading to sole or joint ownership of a copyright or patent.

#### **E. FORMS AND AUXILIARY REFERENCES**

1. Application for Registration of a Claim to Copyright: Register of Copyrights, Library of Congress, Washington, D.C.
2. Application for Registration of a Claim to Patent

SUBJECT: **Copyrights and Patents**

NO: **7037**

PAGE: **3 OF 3**


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**F. REPORTS AND RECORDS**

**G. APPROVED BY**



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Chief of Staff, Terrance L. Smith  
For the Superintendent of Public Education