

General Personnel

Administrative Procedure - Instructional Materials and Computer Programs Developed Within the Scope of Employment

Definitions 24

The definitions used in this procedure are in accordance with State and federal law. In the event of a change, these procedures shall be deemed to be modified to the extent required by the change.

Works made for hire – Instructional materials and computer programs (including written, electronic, digital, audio, visual materials, films, and works of art) when an employee creates them:

1. Within the employee's scope of employment,
14. In whole or in part during hours of District employment (not including lunch periods or other similar free periods),
15. Under the District's supervision or control,
16. As a direct result of the employee's duties with the District, and/or
17. Using District resources or facilities.

Proceeds – Profits derived from the marketing or sale of instructional materials after deducting the expenses of developing and marketing these materials.

Computer program – 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.

Computer – An internally programmed, general purpose digital device capable of automatically accepting and processing data and supplying the results of the operation.

Instructional Material Prepared Within the Scope of Employment

All instructional materials developed by an employee within the scope of District employment are works made for hire and belong to the District. The District is entitled to all proceeds from the marketing or sale of works made for hire other than computer programs.

Computer Programs Prepared Within the Scope of Employment

All computer programs developed by an employee within the scope of District employment are works made for hire and belong to the District.

An employee who develops a computer program is entitled to a share of the proceeds from its sale as agreed to by the District. Neither the employee nor the District may receive more than 90% of the proceeds. An employee's representative may conduct the negotiation; the School Board must approve all agreements. 25

The employee must provide the Superintendent or designee with prior written notification of his or her intention to publish any computer programs developed within the scope of District employment. The District has the exclusive right to register the copyrights for them. Unless the employee specifically states in writing to the contrary, the employee warrants that any programs developed and submitted to the District for publication are original.

24 The definitions are derived from 105 ILCS 5/10-23.10(b) and 17 U.S.C. §101. See also the U.S. Copyright Office's *Works Made for Hire Circular 30*, at: www.copyright.gov/circs/circ30.pdf.

25 The provisions contained in this paragraph are required by 105 ILCS 5/10-23.10(a).

The District shall compute proceeds. 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.

LEGAL REF.: 17 U.S.C. §101.
105 ILCS 5/10-23.10.