

Adopted: _____

MSBA/MASA Model Policy 409

Orig. 1995

Revised: _____

Rev. 2008, 2025

409 EMPLOYEE PUBLICATIONS, INSTRUCTIONAL MATERIALS, INVENTIONS, AND CREATIONS

I. PURPOSE

The purpose of this policy is to identify and reserve the proprietary rights of the school district to certain publications, instructional materials, inventions, and creations which employees may develop or create, or assist in developing or creating, while employed by the school district.

II. GENERAL STATEMENT OF POLICY

It is the policy of the District that all employees and students act in accordance with the provisions of the United States Copyright Act as it affects the District's activities and operations. Copyright laws are complex and place restrictions on the reproduction, public performance, public display, distribution and use of copyrighted materials by District employees and students. Copyrighted materials may consist of any original work of authorship, including books, articles, musical recordings and performances, films, audiovisual works, plays, photographs, animations, works of art, web pages and images, computer programs, and other materials.

~~Unless the employee develops, creates or assists in developing or creating a publication, instructional material, computer program, invention or creation entirely on the employee's own time and without the use of any school district facilities or equipment, the employee shall immediately disclose and, on demand of the school district, assign any rights to publications, instructional materials, computer programs, materials posted on websites, inventions or creations which the employee develops or creates or assists in developing or creating during the term of employee's employment and for 3 years [school district should select time] thereafter. In addition, employees shall sign such documents and perform such other acts as may be necessary to secure the rights of the school district relating to such publications, instructional materials, computer programs, materials posted on websites, inventions and/or creations, including domestic and foreign patents and copyrights.~~

III. DEFINITIONS

Copyright—the right of the legal owner of a copyrighted work to restrict the reproduction, distribution, public performance, public display or other use of the copyrighted work in any form or media, including digital works without the copyright owner's permission.

Copyright laws—the laws of the United States protecting copyrights, which are set forth by federal statute in the United States Copyright Act, 17 U.S.C. § 101 et seq. The Act is available at the web site for the United States Copyright Office at www.copyright.gov.

Copyrighted Works—works protected by copyright laws, regardless whether the work bears a copyright notice or is registered with the United States Copyright office. Copyrighted works include any original work of authorship fixed in any tangible medium of expression, including literary works; musical works; dramatic works; pantomimes and choreographic works; pictorial, graphical and sculptural works; motion pictures and other audiovisual works; sound recordings; architectural works; computer programs; web sites and pages; and other works of authorship in any format or media, including digital works.

Data Privacy— refers to the protection of personal data from unauthorized access, use, or disclosure. It's the principle that individuals should have control over how their personal information is collected, stored, and used. This includes protecting against data breaches and ensuring compliance with data

protection laws and regulations.

Data Security– The practice of safeguarding digital information from unauthorized access, use or disclosure as well as preventing corruption, modification, or destruction.

Fair Use—a provision of the United States Copyright Act, 17 U.S.C. § 107, that gives certain users conditional rights to use or reproduce copyrighted material as long as the reproduction or use of the materials meets specific guidelines. The burden of proving fair use falls on the person using the material. When determining appropriate use under the fair use exemptions, the following must be considered:

- The purpose and character of the use, including whether such use is of a commercial nature, or is for nonprofit educational purposes;
 - The nature of the copyrighted work;
 - The amount and substantiality of the portion used in relation to the copyrighted work as a whole; and
 - The effect of the use upon the potential market for or value of the copyrighted work
- Joint Work**—a work prepared by two or more authors with the intention that their contributions be merged into inseparable or interdependent parts of a unitary whole.

Ownership of Copyright—the copyright in a work vest initially in the author or authors of the work. The authors of a joint work are co-owners of copyright in the work. In the case of a work made for hire, the employer or other person for whom the work was prepared is considered the author in the absence of a contrary written agreement.

Works Made for Hire—a work prepared by an employee within the scope of his or her employment, or a work specially ordered or commissioned for certain uses (including use as a contribution to a collective work), if the parties expressly agree in a written instrument signed by them that the work shall be considered a work made for hire. The employer is the author of a work made for hire by an employee.

IV. REQUIREMENTS

- a. The School Board expects District employees and students to make every effort to comply with current copyright laws. The District will not condone the actions of any employee who violates the District's Copyright Policy.
 - b. No unlawful copying, distribution, display, performance or other use of a copyrighted work may occur using District equipment, within District-owned facilities or in connection with District teaching or learning activities or other District activities or operations.
 - c. Any information that could comprise data security or data privacy will be subject to legal consequences.
 - d. The legal and insurance protection of the District will not be extended to employees who unlawfully violate the copyright laws.
 - e. Employees who make copies and/or use copyrighted materials in their jobs are expected to be familiar with the copyright laws that apply to their uses.
 - f. Employees who use copyrighted works that do not fall within the fair use exception must be able to substantiate that the works meet one of the following tests:
 - i. The works have been purchased from an authorized vendor by the individual or the District and the use is within the scope of use authorized by the vendor.
 - ii. The works are covered by a licensing agreement or written permission between the copyright owner and the individual or District and the use is within the scope of the license or permission.
 - iii. The works are being previewed or demonstrated for the purpose of reaching a decision about future purchase or licensing of the works, and a valid agreement exists with the individual or the District that permits such use.
- f. If a student or employee is no longer associated with the district, they must make a written request to the Information Services department about which materials they would like

digital copies of. Requested materials will be reviewed to ensure data privacy. Requests must be made within one year of the employee or students' last day. Any requests made after this time will be rejected.

g. An annual review of the Compliance with the Copyright Laws Policy is conducted at the direction of the building principal.

V. ~~III.~~ NOTICE OF POLICY

The school district shall give employees notice of this policy by such means as are reasonably likely to inform them of this policy.

Legal References: Minn. Stat. § 181.78 (Agreements; Terms Relating to Inventions)
17 U.S.C. § 101 *et seq.* (Copyrights)

Cross References: None