

OFFICE OF THE SUPERINTENDENT

Millburn Public Schools

INFORMATION ITEM

October 6, 2010

To: Board of Education Members

From: Ellen E. Mauer, PhD

Subject: First Reading-Copyright-5:170

This policy is updated and changes the title to Copyright. The wording under the copyright compliance indicates that staff members should check with the person designated as the copyright compliance officer if they are unsure about what they are copying. There is a specific section addressing computer programs that has been eliminated. The section regarding instructional materials has been modified to give direction regarding any employee who has been assigned to develop instructional materials on behalf of the district.

We ask that you use this as your first reading period and then put this on the next BOE meeting agenda for a second reading and approval.

## General Personnel

### Copyright 1

#### Works Made for Hire

The Superintendent shall manage the development of instructional materials and computer programs by employees during the scope of their employment in accordance with State and federal laws and School Board policies. Whenever an employee is assigned to develop instructional materials and/or computer programs, or otherwise performs such work within the scope of his or her employment, it is assured the District shall be the owner of the copyright.

#### Copyright Compliance

While staff members may use appropriate supplementary materials, it is each staff member's responsibility to abide by the District's copyright compliance procedures and to obey the copyright laws. The District is not responsible for any violations of the copyright laws by its staff or students. A staff member should contact the Superintendent or designee whenever the staff member is uncertain about whether using or copying material complies with the District's procedures or is permissible under the law, or wants assistance on when and how to obtain proper authorization. No staff member shall, without first obtaining the permission of the Superintendent or designee, install or download any program on a District-owned computer. At no time shall it be necessary for a District staff member to violate copyright laws in order to properly perform his or her duties.

LEGAL REF.: Federal Copyright Law of 1976, 17 U.S.C. §101 et seq.  
105 ILCS 5/10-23.10.

CROSS REF.: 6:235 (Access to Electronic Networks)

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The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

<sup>1</sup> State or federal law controls this policy's content. Creators of original materials, including materials posted on the Internet, are granted exclusive rights, known as "copyrights" (17 U.S.C. §101 et seq.). These exclusive rights include reproducing and publicly performing the work. Congress granted some exceptions to exclusive rights for schools, including §107 on fair use, §108 on library reproduction and archiving, §109 on first sale, and §110 on classroom performance and display. If not covered by an exception, the copyright owner's permission must be sought before a work can be copied or performed. The fine for failing to comply with copyright law is steep making the cost of consulting with the board's attorney a bargain.

## **General Personnel**

### **Copyright for Publication or Sale of Instructional Materials and Computer Programs Developed by Employees**

#### Instructional Materials

All instructional materials developed by an employee within the scope of employment with the District shall be classified "works for hire" and are the District's property. The District is entitled to all proceeds from the sale of "works for hire" other than computer programs.

The employee must provide the District with prior written notification of his or her intention to publish any instructional materials developed within the scope of employment. In no case shall notification be made any later than 20 business days prior to entering into a contract for publication with a publishing firm or with a manufacturer. The District has the exclusive right to register the copyrights for such instructional materials. Unless the employee specifically states in writing to the contrary, the employee warrants that any instructional materials developed and submitted to the District for publication are original.

#### Computer Programs

The 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. The negotiation may be conducted by an employee's representative.

"Proceeds" are the profits after deducting expenses and shall be computed by the District. 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, and the District.

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ADOPTED: May 20, 2002