

405.15 Employee Research and Intellectual Property Rights

Policy

The Board and Division employees shall share fairly in the returns which may accrue from educational research, curriculum development and related work in which they are directly involved.

Regulations

1. Before entering into contractual arrangements with a publisher or making arrangements for independent publishing, employees shall seek approval from the Superintendent.
2. The publicly funded resources of the Division are intended to serve public education rather than private commercial interests. Therefore, employees are advised that it is inappropriate to use Division resources for production, marketing or other business expenses related to the pursuit of private gain.
3. Division employees who create or produce pedagogical materials as a duty of their employment with the Division, and then plan to offer these materials for commercial profit, are strongly advised to enter into discussions with the Superintendent for the purpose of establishing a written agreement as to whether or not the materials produced by the employee belong solely to the employee, the employer, or some combination thereof.
 - 3.1. Written agreements are intended to recognize that the creator and owner of pedagogical materials have certain moral or proprietary rights including, a right to protection of honour and reputation, a right to have their names associated with the work or to remain anonymous, a right to protect materials from distortion, mutilation or modification in ways that may damage the honour or reputation of the creator and owner, and a right to reject or restrain any use which could be prejudicial to the honour or reputation of the creator and owner.
 - 3.2. Where a written agreement permits an employee to publish, produce or market materials created in the course of employment, all risk associated with possible infringement of third party copyright is assumed by the employee. Written agreements in this situation must include "save harmless" provisions to protect the Division.

Materials Produced With Division Financial Support

4. Unless otherwise indicated in a written agreement between the employee and the Division, materials produced with Division financial support as outlined below are the sole property of the Division:
 - 4.1. those initiated or authorized by Division senior administrative personnel;
 - 4.2. those for which regular school time and/or resources for development were used;
 - 4.3. those for which employees were reimbursed or commissioned by the Division to develop; or
 - 4.4. those for which the Division purchases the rights directly from the employees.
5. If the rights or materials are subsequently sold at a profit, some agreed upon portion of that profit may be returned to the employees involved in the production of materials to compensate for time dedicated to the project beyond the normal school day.
6. Copies of the materials may be made available to employees in the Division and to outside persons for the cost of reproduction. The creator(s) of the materials shall be acknowledged unless anonymity is requested.
7. In some cases, the Division may be prepared to waive any of its proprietary rights provided that the following conditions are met:
 - 7.1. that the Division is reimbursed for such resources as it has provided;
 - 7.2. that the Division is granted full reproduction rights to the products developed for use within the Division for non-profit distribution without recourse of copyright;
 - 7.3. that the Division's contribution is acknowledged.
8. When a teacher chooses to leave the Division, materials developed with Division support shall be left with the Division.
 - 8.1. The employee shall be reimbursed for any personal costs of materials involved during production.
 - 8.2. The contribution of the individual or individuals involved in the production will be recognized on the materials.
 - 8.3. In the case of computer software, the creator of the material shall leave the program with the Division on the condition that it not be reproduced for profit.

- 8.4. The creator of the material may retain a copy of the software on the understanding that the copyright resides with the Division unless otherwise negotiated.
9. When an employee leaves a particular school, but stays within the Division, the school has the right to reproduce any materials developed as part of the school's program.

Use of Student Work as Exemplars

10. An employee cannot use student work in any part of a resource unless said use of student work is approved by the Superintendent. If approved, parent/guardian permission must be obtained, and permission forms subsequently filed with the Director of Curriculum and Instruction.

Material Produced Without School Division Financial Support

11. In those instances in which an employee has initiated and developed materials entirely on their own, where the work is not considered to be a fulfillment of their duties of employment and without using Division resources, the employee is clearly the sole owner of such materials.
12. If, in this case, the owner has produced materials which they wish to sell for more than the costs of reproduction, that is the owner's right. Division endorsement and/or use of the Division logo requires the approval of the Superintendent or designate,

The Board delegates to the Superintendent the authority to develop the procedures necessary to implement this policy.

References

Education Act:	196
Other Statutes:	Alberta Labour Relations Code, Employment Standards Code, Copyright Act
Division Policies:	405.4 Secondary Employment
Other:	Employee Collective Agreements