

KERN COUNTY SUPERINTENDENT OF SCHOOLS**INSTRUCTION & PERSONNEL****USE AND PUBLICATION OF COPYRIGHTED MATERIALS**

The Kern County Superintendent of Schools Office (“KCSOS”) recognizes that teachers, administrators and other KCSOS staff and students may use a variety of copyrighted materials in KCSOS activities, including the educational program, posting on KCSOS-sponsored websites, social media platforms and other electronic resources. The County Superintendent expects staff and students to respect the protections afforded by federal law to the copyright owners of those materials and respect any limitations by the copyright holder to the license of such materials.

This policy and associated guidelines (E 6162) address the use of copyrighted materials in connection with KCSOS activities, as well as the creation of original copyrighted materials by KCSOS employees and consultants.

USE OF COPYRIGHTED MATERIALS IN INSTRUCTION AND OTHER KCSOS ACTIVITIES

Any original work (whether it be literary, musical, dramatic, choreographic, pictorial, graphic, sculptural, audiovisual or motion picture, sound, architectural, or other) shall be assumed to be a copyrighted work, regardless of whether the work appears in print, audio, video, electronic, or other fixed and tangible form. Materials subject to copyright protection need not be registered with the U.S. Copyright Office to qualify for federal intellectual property protection.

KCSOS staff seeking to use materials shall determine whether it is necessary to secure permission from the copyright holder before reproducing, distributing, displaying, posting, performing, or otherwise using material protected by copyright (including material found on the Internet) for an instructional purpose or in the course of other KCSOS business (including posting on KCSOS or school websites). Many exceptions to copyright requirements exist, but it is often difficult to determine their legal application in a particular circumstance. Unless the staff member is reasonably certain that the material is in the public domain or the intended use meets the criteria for an exception specified in 17 United States Code sections 107-122, permission shall either be obtained from the copyright holder or the material shall not be used.

Inclusion of an attribution citing the author and source of a copyrighted material does not absolve the staff member from the responsibility to either obtain permission or satisfy criteria for fair use or another exception.

If a staff member is uncertain as to whether the intended use of the material meets the criteria for fair use or another exception, they shall take the safest course and seek permission from the

copyright holder to use the material. If it is impracticable to obtain permission, the County Superintendent or designee shall be contacted for clarification and assistance.

Students and staff shall not copy or distribute copyrighted works to others without appropriate authority or permission. Staff members shall take reasonable precautions to prevent copying or the use of unauthorized copies on school equipment.

Any authorized reproduction or other use of a copyrighted work shall include the copyright notice.

Staff and students are required to annually sign an acceptable use policy governing their use of technology in connection with KCSOS activities or instruction, with provisions relating to the use of copyrighted materials.

KCSOS has created Employee Guidelines Related to Copyrighted Materials (E 6162) with additional helpful information on copyright issues. Staff shall adhere to these Guidelines in dealing with copyrighted materials. (See E 6162)

CREATION OR PUBLICATION OF MATERIALS

In general, federal copyright law provides that the owner of the copyright is the creator of the work. However, federal law specifies that the employer is the copyright holder of a "work for hire" created by an employee within the scope of his/her employment. Examples of a "work for hire" may include an instructional text, test, computer program, or web design. Although KCSOS is the owner of a copyright of a "work for hire," the law authorizes KCSOS to enter into agreements to transfer ownership of the copyright or hold it jointly with another person or entity.

KCSOS recognizes the importance of creating a work environment that encourages employee innovation in creating and developing high-quality materials to improve student achievement and the efficiency of KCSOS operations.

The County Superintendent or designee shall oversee the development of instructional materials, computer programs, and other copyrightable materials by employees, independent contractors, and consultants. An employee, independent contractor, or consultant shall notify the County Superintendent or designee of the intent to publish or register a work developed in whole or in part within the scope of employment.

Instructional materials, computer programs, and other copyrightable materials developed by an employee within the scope of employment shall be the property of KCSOS.

If an employee has developed copyrightable material partially outside the scope of employment, the County Superintendent or designee may negotiate a contract with the employee to protect KCSOS's right as to the ownership or partial ownership of the copyright.

Any contract with an independent contractor or consultant for the development of copyrighted materials should contain a provision specifying KCSOS's rights in connection with copyright.

The County Superintendent or designee may secure copyrights in the name of KCSOS for all copyrightable works developed by or on behalf of KCSOS. All royalties or revenues from these copyrights shall be used for the benefit of KCSOS.

Employees may request that the office register the copyright in an original work developed on behalf of KCSOS. KCSOS shall have final authority for approving materials to be registered with the U.S. Register of Copyrights. Employees requesting copyright registration shall inform the County Superintendent or designee of any applicable requirements under a grant or other agreement which may impact registration of copyright.

Legal Reference:

EDUCATION CODE

- 32360 Copyrights; use of funds
- 32361 Copyrights; use of employee work time
- 35170 Authority to secure copyrights
- 35182 Computer software
- 60076 Royalties or other compensation

LABOR CODE

- 2870-2872 Inventions made by an employee

UNITED STATES CODE, TITLE 17

- 101-122 Subject matter and scope of copyright, especially:
 - 102 Definitions
 - 106 Copyright protection
 - 107 Fair use of copyrighted works
 - 110 Limitations on exclusive rights: Exemption of certain performances and displays
 - 201 Copyright ownership and transfer
 - 504 Penalties for copyright infringement