

**San Bernardino County Superintendent of Schools
Policy 4012.1**

ELECTRONIC NETWORK AND INTERNET USE POLICY

**TEACHER CONFIDENTIALITY AND
INTELLECTUAL PROPERTY OWNERSHIP AGREEMENT**

In consideration of my employment or the continuation of my employment as a teacher, faculty member, instructor and/or educator (hereinafter “teacher”), it being understood that this Agreement does not itself give me rights to employment or continued employment, by SBCSS (hereinafter “Employer”), I agree as follows:

I. POLICY FOR TEACHER CREATED WORKS OF AUTHORSHIP

In accordance with long standing custom and academic tradition, the Employer, an educational institution, does not claim ownership in books, monographs, articles and other similar works created by teachers except where the work is (i) created with substantial use of Employer resources, financial support or non-teacher Employer personnel beyond the level of resources commonly provided to teachers; (ii) created or commissioned for use by the Employer; or (iii) created under the terms of a sponsored project where the project requires that the copyright be in the name of an entity other than the teacher.

II. COPYRIGHT OWNERSHIP AND ASSIGNMENT

Copyright Rights in Academic and Other Works of Authorship

In accordance with Employer’s policy relating to teacher created works, I retain ownership of the copyright rights in works of authorship that I create while pursuing the usual work of a teacher relating to teaching and research including articles, books, teaching materials and other similar works; provided however that I agree to assign and hereby do assign to Employer works (i) created with substantial use of Employer resources, financial support or non-teacher Employer personnel beyond the level of common resources ordinarily provided to teachers; (ii) created or commissioned for use by the Employer including but not limited to works created when, if ever, I am acting in an administrative capacity for Employer; (iii) created under the terms of a sponsored project where the terms of the sponsored project require that the Employer or another entity own the copyright rights; (iv) that are computer software and/or corresponding documentation; and (v) courses taught and courseware developed for teaching at Employer, however permission is given for copying and displaying such courses and courseware for non-commercial student use.

III. INVENTIONS

A. Disclosure of Inventions

I acknowledge and agree I will be employed by the Employer in a position which could provide the opportunity for conceiving and/or reducing to practice inventions that are patentable subject matter under the laws of the United States (35 U.S.C. 101), hereinafter referred to as “Inventions.” Accordingly, I agree to promptly disclose to the Employer, in writing, all such Inventions.

B. Employer Inventions

The assignment provisions in Paragraph C below shall apply only to “Employer Inventions” as defined herein. Employer Inventions shall mean any Invention that either:

1. relates, at the time of conception or reduction to practice of the Invention, to:
 - a) the Employer’s business, projects or products, or to the manufacture or utilization thereof; or
 - b) the actual or demonstrably anticipated research or development of the Employer;

or
2. results from any work performed directly or indirectly by me for the Employer;

or

3. results at least in part, from the use of the Employer’s time, materials, facilities or trade secret information.

**San Bernardino County Superintendent of Schools
Policy 4012.1**

ELECTRONIC NETWORK AND INTERNET USE POLICY

**TEACHER CONFIDENTIALITY AND
INTELLECTUAL PROPERTY OWNERSHIP AGREEMENT**

IF THIS AGREEMENT IS GOVERNED BY CALIFORNIA LAW, PARAGRAPH III.C DOES NOT APPLY TO ANY INVENTION WHICH QUALIFIES FULLY UNDER THE PROVISIONS OF CALIFORNIA LABOR CODE SECTION 2870, INCLUDING ANY IDEA OR INVENTION WHICH IS DEVELOPED ENTIRELY ON MY OWN TIME WITHOUT USING THE EMPLOYER'S EQUIPMENT, SUPPLIES, FACILITIES OR TRADE SECRET INFORMATION, AND WHICH IS NOT RELATED TO THE EMPLOYER'S BUSINESS OR THE ACTUAL OR DEMONSTRABLY ANTICIPATED RESEARCH OR DEVELOPMENT OF THE EMPLOYER, AND WHICH DOES NOT RESULT FROM WORK PERFORMED BY ME FOR THE EMPLOYER.

C. Assignment of Employer Inventions

I hereby assign and agree to assign, to the Employer all my right, title and interest in and to all Employer Inventions. Inventions based on or derived from the Employer's information which was obtained by me during my employment with the Employer which are conceived or reduced to practice by me within one year following my termination of employment with the Employer (voluntary or otherwise) are Employer Inventions.

IV. TRADE SECRETS AND CONFIDENTIAL INFORMATION

A. Confidentiality of Employer Information

Except for works of authorship created by and owned by me in accordance with section II. COPYRIGHT OWNERSHIP AND ASSIGNMENT, I agree to regard and preserve as confidential all information obtained by me relating or pertaining to the Employer's business, projects, products, customers, trade secrets, confidential information (including business and financial information), and any computer programs and software or unpublished know-how, whether patented or unpatented, and to all of my activities for or on behalf of the Employer, and not to publish or disclose any part of such information to others or use the same for my own purposes or the purposes of others, during the term of this employment or thereafter ("Employer Confidential Information").

B. Prevention of Unauthorized Release of Employer Confidential Information

I agree to promptly advise the Employer of any knowledge which I may have of any unauthorized release or use of any Employer Confidential Information, and shall take reasonable measures to prevent unauthorized persons or entities from having access to, obtaining or being furnished with any Employer Confidential Information.

C. Confidential Information of Third Parties

I agree to preserve as confidential the confidential information of any third party to which I may have access and to treat such information as though it were Employer Confidential Information. I further agree not to disclose to the Employer and not to use in any way in connection with my employment therewith any confidential information or trade secrets of any kind, or any embodiments thereof, of any previous employer or other third party. Specifically, and without limitation, I agree to use only my general knowledge, experience, and skill in connection with my employment with the Employer and acknowledge that this is the purpose for which I have been hired by the Employer. I hereby represent to Employer that: (i) except as disclosed to Employer in writing on or before the date of this Agreement, I am not a party to any agreement or understanding, written or oral, which may restrict me in any manner from engaging in any activities which Employer may be required or expected to perform, and (ii) I have returned or destroyed any papers in my possession, which contained a former employer's or other third party's confidential information.

**San Bernardino County Superintendent of Schools
Policy 4012.1**

ELECTRONIC NETWORK AND INTERNET USE POLICY

**TEACHER CONFIDENTIALITY AND
INTELLECTUAL PROPERTY OWNERSHIP AGREEMENT**

D. Termination of Employment

I agree that, upon termination of my employment with the Employer (voluntary or otherwise), I will not take with me and otherwise will return to the Employer any and all things belonging to the Employer, including, without limitation, all documents, records, notebooks and tangible articles containing or embodying confidential information, on any media or in any form, including copies thereof, then in my possession or control, whether prepared by me or others. I recognize that the unauthorized taking of any of the Employer's trade secrets is a crime under section 499(c) of the California Penal Code, and is punishable by imprisonment in a state prison or in a county jail for a time not exceeding one year, or by a fine not exceeding ten thousand dollars (\$10,000), or by both such fine and such imprisonment. I further recognize that such unauthorized taking of the Employer's trade secrets may also result in civil liability under California Civil Code Section 3426, *et seq.*, and that a willful taking may result in an award against me for the Employer's attorney's fees and triple the amount of the Employer's damages.

E. Exit Interview

In consideration of my employment with the Employer, I agree that, upon termination of my employment with the Employer (voluntary or otherwise), I will attend an exit interview and execute a Termination Certificate in a form substantially the same as that attached hereto as "Exhibit A."

V. GENERAL PROVISIONS

- A. If any portion of this Agreement is found to be void or unenforceable, it shall be severed here from, leaving in force the remainder of this Agreement, and such remaining portions shall be modified so as to be enforceable to the fullest extent allowed by law.
- B. This Agreement will be binding upon my heirs, assigns, executors, administrators or other legal representatives. This Agreement, and any of my rights or obligations hereunder, are not assignable, in whole or in part, by me, and any such attempted assignment shall be null and void. This Agreement is freely assignable by Employer.
- C. No waiver or modification of any of the terms or provisions of this Agreement shall be valid unless contained in a single written agreement signed by both myself and the Employer. No delay or failure to act, and no course of conduct or manner of dealing between the parties shall constitute a waiver of any term or provision of this Agreement.
- D. In the event that any legal action becomes necessary to enforce or interpret the terms of this Agreement, the prevailing party shall be entitled, in addition to its court costs, to such reasonable attorneys' fees, expert witness fees and legal expenses as shall be fixed by a court of competent jurisdiction. This Agreement shall be governed by the laws of the State of California, without regard to conflicts of laws provisions. The exclusive jurisdiction for any legal proceeding regarding this Agreement shall be in the courts of California, and I hereby expressly agree that jurisdiction and venue are proper in said courts.
- E. Nothing in this Agreement shall limit the remedies available to the Employer. Specifically, and without limitation, wherever I have agreed to execute assignment or other documents for the benefit of the Employer, I hereby irrevocably appoint the Employer as my attorney-in-fact for the limited purpose of executing any and all such documents and performing any and all other acts necessary to give effect and legality to the provisions of this Agreement. I acknowledge that there will be no adequate remedy at law for my failure to comply with the terms of this Agreement and that Employer shall have the right to have any breach of this Agreement remedied by equitable relief (e.g., temporary restraining order, preliminary

San Bernardino County Superintendent of Schools
Policy 4012.1

ELECTRONIC NETWORK AND INTERNET USE POLICY

**TEACHER CONFIDENTIALITY AND
INTELLECTUAL PROPERTY OWNERSHIP AGREEMENT**

injunction, permanent injunction, specific performance, etc.) without posting any bond or surety, and such other alternative relief as may be appropriate.

- F. Wherever necessary to carry out the intent of the parties, certain provisions of this Agreement, including without limitation, paragraphs II; III(A), (C); and IV, shall survive the termination of my employment with the Employer and shall continue in full force and effect.
- G. I acknowledge that this Agreement is in consideration of my employment with the Employer, whether executed before, at, or following my initial employment therewith. I further acknowledge that this Agreement does not create any obligation for my continued employment by the Employer.
- H. In connection with this Agreement, I agree to comply with the intellectual property policies and guidelines of the Employer, whether or not written in an employee manual or handbook, and further acknowledge and agree that such policies and guidelines are subject to change by the Employer from time to time in its sole discretion. Specifically, without limiting the foregoing and without additional consideration, I agree to execute, upon reasonable request, any additional or substitute agreements relating to the protection of the Employer’s intellectual property rights. I further agree that none of my rights and obligations hereunder shall be affected by any changes during the terms of my employment by the Employer in my title, duties or compensation.
- I. This Agreement, including Exhibit A, contains the entire understanding between myself and the Employer with respect to the subject matter hereof, and that it supersedes and cancels all previous agreements. There are no representations, warranties, promises or undertakings other than those contained in the provisions above.

This Agreement is executed by me at _____ in the State of California, this day of _____ 20____, and shall be effective no later than the earliest date on which my employment begins.

SBCSS HUMAN RESOURCES BRANCH

TEACHER

(Please print)

(Please print)

(Signature)

(Signature)

(Date)

(Date)

Please read this document carefully. Your signature is requested in order to provide you with this access.

Failure to sign and return this agreement does not alleviate any SBCSS Employee from the obligations to comply with all terms and conditions stated herein.

San Bernardino County Superintendent of Schools
Policy 4012.1

ELECTRONIC NETWORK AND INTERNET USE POLICY

TEACHER CONFIDENTIALITY AND
INTELLECTUAL PROPERTY OWNERSHIP AGREEMENT

EXHIBIT A
TERMINATION CERTIFICATE

This is to confirm that I have reviewed the Teacher Confidentiality and Intellectual Property Ownership Agreement signed by me on (date) _____, 20__, and that I understand the terms of that Agreement and the continuing obligations I have under that Agreement. During the course of my employment with <DISTRICT> (the "Employer"), I may have created works and/or inventions as defined and acknowledged in Sections II and III of that Agreement and understand that the ownership of these works and/or inventions are as set forth therein.

In addition and during the course of my employment with Employer, I have had access to district owned information regarded by the Employer as confidential ("Employer Confidential Information") and will continue to maintain this information confidential in accordance with Section IV of the Teacher Confidentiality and Intellectual Property Ownership Agreement signed by me with the Employer.

I certify that I do not have in my possession or control, nor have I failed to return, any specifications, drawings, blueprints, reproductions, prototypes, sketches, notes, reports, proposals or copies thereof, in any medium or in any form, electronic or otherwise, or other documents or materials, tools, equipment or other property belonging to the Employer, including any documents, records, notebooks and similar repositories of confidential information, including copies thereof, in any medium or in any form, electronic or otherwise, whether prepared by me or others.

I further certify that I have complied with and will continue to comply with all of the terms of the Teacher Confidentiality and Intellectual Property Ownership Agreement signed by me with the Employer, including the reporting of any inventions conceived or reduced to practice by me and covered by the Agreement. I further agree that in compliance with the Teacher Confidentiality and Intellectual Property Ownership Agreement, I will preserve as confidential all proprietary technical and business information pertaining to the Employer. During the course of my employment with the Employer, I have become familiar with its procedures for protecting trade secrets and confidential information and agree that they are reasonable under the circumstances to maintain the secrecy of such information.

If requested by the Employer, I agree to notify my new employer as to the general nature or subject matter of the confidential and proprietary information to which I had access while employed by the Employer, and as to my obligations with respect to such information.

Executed by me at _____ in the State of California, this day of _____ 20__.

SBCSS HUMAN RESOURCES BRANCH

TEACHER

(Please print)

(Please print)

(Signature)

(Signature)

(Date)

(Date)

Please read this document carefully. Your signature is requested in order to provide you with this access.

Failure to sign and return this agreement does not alleviate any SBCSS Employee from the obligations to comply with all terms and conditions stated herein.