

A. Purpose

To establish guidelines regarding the proprietary rights of Frederick County Public Schools (FCPS) staff for intellectual property (IP) developed by them.

B. Background

The Board of Education of Frederick County (the “Board”) enacted [Board Policy 305, *Conflict of Interests and Employee Ethics*](#), which includes a provision related to intellectual property. The Board recognized that employees may create intellectual property while outside of their work duty day and apart from their employment with FCPS. The Board also recognized that there may be an overlap between an employee’s outside activities and the work they do for FCPS, creating a need to articulate a process for determining whether the developed intellectual property is within the scope of their employment in whole or in part and, if so, how to articulate the respective rights of the school system and the individual. The Board also directed the Superintendent to implement a regulation describing the meeting process to review the employee’s project and resulting intellectual property.

C. Definitions

1. “Intellectual Property” (IP) is defined to mean creations of the mind including, but not limited to, materials, software, technology tools, print materials, social media and website content, inventions, processes, and other creative works and ideas embodied in a form that can be shared or can enable others to recreate, emulate, or manufacture them. Intellectual property can be protected by patents, trademarks, copyright or trade secrets.

D. Procedures

1. Providing Notice and Approval

- a. All employees will provide notice and seek a meeting for guidance from the Superintendent when developing materials and/or other forms of intellectual property that may be related to their employment.
 - i. Employees should email superintendent@fcps.org with the subject line: ***Intellectual Proper Notice and Approval Request***. The email should include a copy of the [Intellectual Property Notice and Approval Request Form](#) (Form 305-F01) to provide context and information regarding the request.
 - ii. The Superintendent will identify a designee to review the request and provide a response within 20 business days.
 1. A meeting is not required to be held, but can be scheduled if the Superintendent or their designee needs additional information.

2. An [Intellectual Property Notice and Approval Request Form](#) should be submitted regardless of whether the materials and/or other forms of intellectual property will be developed outside or during the work duty day or will use some or no FCPS resources.

2. Recognizing Proprietary Rights

- a. The Board retains the rights to all materials and/or other forms of intellectual property, produced by FCPS employees during their work duty day, or as part of their employment, or with the use of FCPS resources. In this situation, the Board reserves the right to copyright or patent these materials and/or other forms of intellectual property in its name and to otherwise exercise proprietary rights, including royalty rights, regarding these materials and/or other forms of intellectual property.
- b. Employees who obtain approval to develop materials and/or other forms of intellectual property that does involve full or partial use of FCPS resources and/or partial use of the work duty day shall have the respective rights of ownership between the employee and the Board addressed in a written agreement. If there is no such agreement, the rights of ownership shall belong to the Board.

3. Addressing Monetized Social Media and Materials Development

- a. Monetized social media activities or publication of materials on for-pay crowd sourced sites could create potential conflicts of interest, particularly if the content is related to educational products or services. Notification by employees helps identify and address these conflicts before they arise.
- b. Employees are required to provide notice to FCPS for any monetized social media activities or publication of materials on for-pay crowd sourced sites related to their employment or workplace.
 - i. Monetizing content that involves employment or workplace facilities must ensure boundaries between professional duties and the optics of personal financial gain. Notification to the employer ensures that the content maintains appropriate boundaries and adheres to ethical standards.
 - ii. Any monetized social media content that involves FCPS buildings, facilities, likenesses, or individuals reflects on the system. If, upon review, FCPS finds that the material does not align with the school system's guidelines for employee conduct, policies, or standards of professionalism, employees will be notified and counseled to suspend any further use.
- c. Any content that breaches student privacy or violates confidentiality agreements will be denied.
- d. Any materials that are copies or approximations of FCPS provided resources will be denied.

4. FCPS Obligations

- a. The Office of the Superintendent will maintain a file of the [Intellectual Property Notice and Approval Request Forms](#) of employees and will make this file available to the Board on request.

- b. Should employees request that their materials and/or other forms of intellectual property not be purchased by FCPS, the employee will provide notice to the Purchasing Office.
 - c. The Superintendent or their designee will notify employees annually of the expectations included in [Board Policy 305](#), *Conflict of Interests and Employee Ethics*, and these implementation procedures.
5. Any employee found in violation of this regulation or Section D(10) of [Board Policy 305](#), *Conflict of Interests and Employee Ethics*, may be subject to employee discipline.

E. Related Information

- 1. **Board Policy**
 - a. [Policy 305](#), *Conflict of Interests and Employee Ethics*
- 2. **FCPS Resources**
 - a. [Intellectual Property Notice and Approval Request Form](#)

F. Regulation History (Maintained by Legal Services)

<i>Responsible Office</i>	Office of the Superintendent
Adoption Dates	09/06/24
Review Dates	
Revision Dates	