

Navigating the Intellectual Property Ocean

While Providing Knowledge to Students, Is Your School District Pirating the Intellectual Property of Others?



Educators use all sorts of material to engage their students and help their students grasp the concepts they need to face the world. With the advent of the internet, the amount of material that can be accessed, copied and distributed is nearly endless. In addition, almost every school has a mascot that helps develop a sense of school spirit and belonging among the student body. Schools and teachers will also create original material on their own or with the assistance of an outside vendor that enhances the educational opportunity provided to students. However, each of these activities implicates intellectual property rights which can lead to costly lawsuits and result in payments to the intellectual rights property holder that were never contemplated by the school.

When creating new material or using an outside vendor to create or redesign material for specific use by the school, educators need to make sure the ownership rights are clearly established. In one instance, a technology instructor at a K-12 school used the internet-based Second Life to create a virtual classroom and an outside design professional assisted the teacher with the design. However, there was no contract with the design professional clearly outlining the

ownership rights. Ultimately, the design professional sued the school and the teacher, individually, when the school attempted to use some of the designs in other programs. The court ordered the parties to settle the matter or conduct a trial on the ownership rights.

In the last several years, colleges have sent out “cease and desist” letters to K-12 schools challenging the use of mascots that are similar to those used and marketed by the colleges. When faced with these challenges, K-12 schools typically agree to modify or change their mascots to avoid the potential costs involved. In one case, a Florida K-12 school had been using its “Gator” mascot since 1965. Despite differences between the mascots, the University of Florida challenged the school’s use of the Gator and the K-12 school agreed to change its mascot rather than face more costly litigation.

Teachers and students routinely copy material from the internet, books and other sources for various projects, but a lack of policies and procedures can lead to lawsuits. In Nevada, someone at the largest school district made an entire copyrighted book available to the faculty and parents on the school district’s website unbeknownst to the administrators. The author sued

Checklist Excerpt

Addressing Intellectual Property Issues

Self-Audit Checklist and Best Practices for School Districts

This self-audit form is intended for use by school district employers who wish to examine their intellectual property (“IP”) policies and practices to assess their level of compliance and/or potential exposure under trademark and copyright laws.

Intellectual Property Categories

- trademark laws protect words and phrases that are used to distinguish products and services; and
- copyright laws protect forms of expression;

Copyright

It is the practice of the District to train personnel working in schools regarding principles of copyright generally and the application of the fair use defense in particular. Yes No

The District’s policy prohibits the use of photographs, images, music, and other works of authorship or content obtained via the Internet, unless the District (or school) obtains a clear license granted by the owner of the copyright rights therein to the District for the exact uses intended. Yes No

The District has policies that prohibit copying others’ team mascots, artwork, and other works of authorship or content, unless the District (or school) obtains a clear license granted by the owner of the copyright rights therein to the District for the exact uses intended. Yes No

The District’s policy requires that software purchased for use by school employees be licensed for the correct usage (e.g., appropriate number of sites and number of seats). Yes No

Trademark

The District has articulated clear policies regarding the selection of words, graphics, and other source identifiers used in connection with school names, team names, and mascots. Yes No

The District reviews and considers the trademark rights of third parties before adopting a trademark for new uses. Yes No

Download the Full Checklist at www.slrma.org

continued from page 1

the Nevada School District in his home state of Kentucky and the school district ultimately settled the matter to avoid the costs of multi-state litigation.

School Districts need to ensure the materials they use and create are properly managed to avoid violating the intellectual property rights of others. Although schools are often able to find protection in the safe harbor of “fair use,” navigating the sea of intellectual property rights may inadvertently result in pirating those rights. To avoid costly mistakes involving intellectual property, download SLRMA’s full checklist, **Addressing Intellectual Property Issues: Self-Audit Checklist and Best Practices for School Districts**, now so your school district does not end up in “the brig” of litigation.

Recent Dispatches in the Newsroom



Transgendered Critical Case

G.G v. Gloucester County School Board (U.S. Ct. App. 4th Cir)

Download it Now!

April 19, 2016

The Federal 4th Circuit Court of Appeals (governing West Virginia, Virginia, North Carolina and South Carolina) recently issued the first major federal decision on the use of school bathrooms by transgendered students. In this case, the court decided that the Department of Education's Office For Civil Rights correctly interpreted its own regulations regarding Title IX. In so finding, the court ruled that requiring a student to use the bathroom corresponding to the student's biological gender, rather than the student's gender identity, violated Title IX. Although this ruling is only enforceable within the 4th Circuit states, it provides guidance to other courts and authority regarding the applicability of Title IX to transgendered students.

SLRMA Board of Directors



Mr. Roger Eddy
Chair
Executive Director
Illinois Association of
School Boards



Mr. Lance Melton
Vice Chair
Executive Director
Montana School Boards
Association



Dr. John Heim
Treasurer
Executive Director
Kansas Association
of School Boards



Mr. John Spatz
Secretary
Executive Director
Nebraska Association
of School Boards



Mr. Shawn Hime
Treasurer
Executive Director
Oklahoma State School
Boards Association



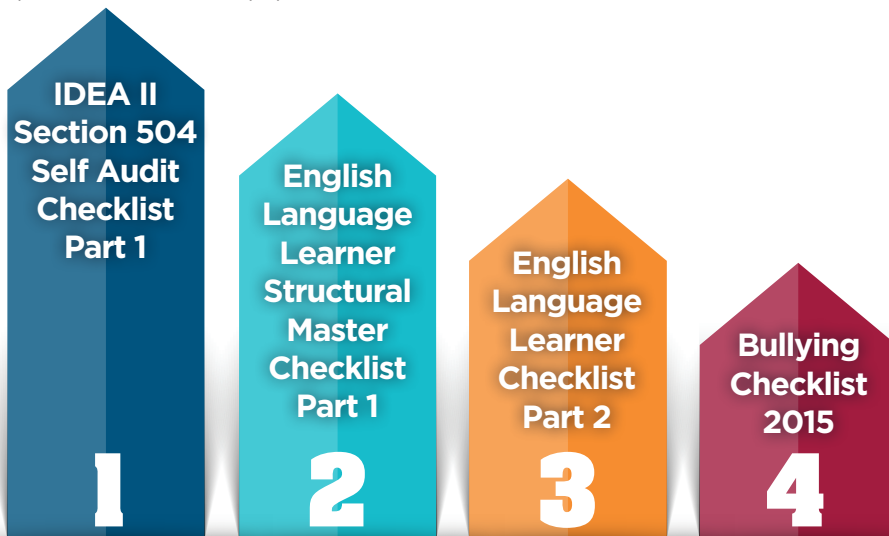
NSBA Liaison
Heather Dean
Associate Executive
Director of Finance and
Operations
National School Boards
Association

Apple tv Give-Away Winners

- | | |
|-----------------|----------------------------|
| Illinois | West Praire CUSD #103 |
| Montana | Pioneer Elementary |
| Oklahoma | Norman Public Schools |
| Nebraska | Broken Bow Public Schools |
| Kansas | Atichson USD #409 |
| Wyoming | Goshen Co. School Dist. #1 |

Top 4 Downloads

SLRMA's Checklists are tools to help you avoid potentially damaging liability. In the last quarter, SLRMA's most popular downloads were:



Content provided by:



Dr. Jerry D. Weast
CEO
Partnership for
Deliberate
Excellence, LLC
(Potomac, MD)



Maree F. Sneed
Partner
Hogan Lovells
US, LLP
(Washington, D.C.)



Cheryl L. Sandner
COO and General
Counsel
Brokers' Risk
(Chicago, IL)



Dr. Gillian Chapman
Superintendent
TCSD #1
(Jackson, WY)



Dr. Troy Loeffelholz
Superintendent
Columbus Public
Schools
(Columbus, NE)



William J. Perry
SLRMA
Chief Content Editor
Counsel, Brokers' Risk
(Chicago, IL)



Andrew Holmlund
Superintendent
Ronan School District
(Ronan, MT)



Dr. Joe Siano
Superintendent
Norman Public
Schools
(Norman, OK)

Fair Labor Standards Act

CRITICAL UPDATE

Within the next few months, the Department of Labor (the “DOL”) is planning to issue new rules that will significantly expand the number of employees who are eligible for overtime under the FLSA. Now is the time for school districts to begin preparing for the rule changes because it is unclear how much time the DOL will give employers to comply with the new rules, but it could be only a few months.

Head to the newsroom now and download SLRMA’s discussion of the proposed changes to FLSA and review SLRMA’s suggestions on how your school district can prepare for these changes.