

General Institution  
**DRAFT as of 3/29/13**

**BP 3710 SECURING OF COPYRIGHT**

**References:**

Education Code Sections 72207 and 81459;  
17 U.S. Code Section 201

***NOTE: This policy is legally advised.***

The Chancellor is directed to develop appropriate administrative procedures to implement the provisions of the Education Code which authorize the securing of copyright protection for works, including but not limited to registering copyrights and policing infringements, on behalf of the District. The procedures developed by the Chancellor shall assure that the District may use, sell, give or exchange published materials and may license materials prepared by the District in connection with its curricular and special services.

In the development of these procedures, the Chancellor shall solicit the input of the proper representatives of the college community in accordance with the District's policies regarding shared local decision making.

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***NOTE:*** The **red ink** signifies language that is **legally advised** and recommended by the Policy and Procedure Service and its legal counsel.

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**Date Adopted:**

*(This is a new policy recommended by the  
Policy and Procedure Service)*

## Legal Citations for BP 3710

### Education Code Sections 72207 and 81459

**72207.** The governing board of a community college district may secure copyrights, in the name of the district, to all copyrightable works developed by the district, and royalties or revenue from said copyrights are to be for the benefit of the district securing said copyrights.

**81459.** A community college district may, in accordance with regulations adopted by the governing board of the district and for educational use, sell, give, or exchange for similar published materials, published materials prepared by the district in connection with the curricular and special services that the district is authorized to perform. Unless restricted by the regulations of the governing board, the sale or gift may be made to, and the exchange may be made with, any person, political subdivision, public officer or agency, or educational institution. The distribution of the published material in accordance with this section is declared to be a public purpose and in furtherance of Section 1 of Article IX of the California Constitution.

A community college district may also license the use of copyrights held by the district, to the same persons or entities and for the same purposes as provided in the above paragraph.

The district shall grant a license to any public agency organized under the authority of this state, unless an exclusive license has previously been granted a private publisher.

Any charge which may be assessed such a public agency for the license to use the copyright or for materials, to which the district holds the copyright, shall not exceed the cost to the district of the preparation and reproduction of the materials.

Any granting of a license, by a district, to reproduce copyrighted material is declared to be for a public purpose in furtherance of Section 1 of Article IX of the California Constitution.

### 17 United States Code 201

Copyright Law of the United States of America and Related Laws Contained in Title 17 of the *United States Code*

Circular 92

Chapter 2 -- Copyright Ownership and Transfer

- [201. Ownership of copyright](#)
- [202. Ownership of copyright as distinct from ownership of material object](#)
- [203. Termination of transfers and licenses granted by the author](#)
- [204. Execution of transfers of copyright ownership](#)
- [205. Recordation of transfers and other documents](#)

### § 201. Ownership of copyright

(a) INITIAL OWNERSHIP. — Copyright in a work protected under this title vests initially in the author or authors of the work. The authors of a joint work are coowner of copyright in the work.

(b) WORKS MADE FOR HIRE. — In the case of a work made for hire, the employer or other person for whom the work was prepared is considered the author for purposes of this title, and, unless the parties have expressly agreed otherwise in a written instrument signed by them, owns all of the rights comprised in the copyright.

(c) CONTRIBUTIONS TO COLLECTIVE WORKS. — Copyright in each separate contribution to a collective work is distinct from copyright in the collective work as a whole, and vests initially in the author of the contribution. In the absence of an express transfer of the copyright or of any rights under it, the owner of copyright in the collective work is presumed to have acquired only the privilege of reproducing and distributing the contribution as part of that particular collective work, any revision of that collective work, and any later collective work in the same series.

(d) TRANSFER OF OWNERSHIP. —

(1) The ownership of a copyright may be transferred in whole or in part by any means of conveyance or by operation of law, and may be bequeathed by will or pass as personal property by the applicable laws of intestate succession.

(2) Any of the exclusive rights comprised in a copyright, including any subdivision of any of the rights specified by [section 106](#), may be transferred as provided by clause (1) and owned separately. The owner of any particular exclusive right is entitled, to the extent of that right, to all of the protection and remedies accorded to the copyright owner by this title.

(e) INVOLUNTARY TRANSFER. — When an individual author's ownership of a copyright, or of any of the exclusive rights under a copyright, has not previously been transferred voluntarily by that individual author, no action by any governmental body or other official or organization purporting to seize, expropriate, transfer, or exercise rights of ownership with respect to the copyright, or any of the exclusive rights under a copyright, shall be given effect under this title, except as provided under title 11.