

Trademark Licensing Administrative Procedures Booster Clubs/PTA

The Board seeks to protect its reputation, interest, and the public at large, by restricting the unauthorized use of names, trademarks, images, and logos that define and identify Miami-Dade County Public Schools (M-DCPS).

Members of the public seeking to use the Board's names, trademarks, or logos for commercial purposes must enter into a Licensing Agreement with the Board.

The purpose of these procedures is to answer many of the questions that arise concerning the protection of a school's trademarks and logos from unauthorized use by outside entities. The procedures are written in a question and answer format to provide a more "user friendly" presentation of the issues.

The use of school trademarks, logos, names, and images by outside entities that define and identify Miami-Dade County Public Schools (MDCPS) is prohibited without prior written authorization. These procedures are intended to generate revenue that will support interscholastic athletics and activities at the secondary level and special programs and activities at the elementary level, and other Miami-Dade County Public Schools (MDCPS) programs. The use of school trademarks, logos, names, and images by outside entities are governed by the provisions in Board Policy 9701- TRADEMARK LICENSING, PROTECTION AND USE (**Attachment 1**).

Questions & Answers

Which groups are permitted to use Board trademarks?

Board trademark(s) may be used as follows:

1. M-DCPS students, student organizations, and school groups may use Board trademarks to promote a group of students, an activity or event, a school, or M-DCPS if the use is in connection with school-related activities. No charge, prior approval or licensing agreement is required under this provision. This permission may be revoked if the use is improper or does not conform to these administrative procedures.
2. School principals may provide written permission to parent organizations, community groups, school affiliated organizations, booster clubs, and other M-DCPS affiliated school-support organizations, to use Board trademarks to promote a group of students, an activity or event, a school, or the District, if the use is in connection with school-related activities. While written permission is

required, no charge or licensing agreement is required under this provision. A PTSA/Booster Club Licensing Agreement, (**Attachment 2**), is to be used when entering into licensing agreements with PTSA/Booster Clubs who want to use M-DCPS trademarks for fundraising purposes.

- a. At any time, the Principal may give written permission for each fiscal year for these organizations to use the school's name, logo, mascot or trademark. At the Principal's discretion, this authorization may be revoked at any time if the Principal determines that the organization has failed to comply with the terms of this policy. If such a determination is made, the Principal will notify the organization in writing of the reason for the revocation. The organization may appeal the revocation to the Superintendent whose decision will be final. The appeal must be filed in writing with the Superintendent no later than five business days from the date of the Principal's letter. In the event of a revocation, the organization shall no longer be authorized to use the school's name, logo, mascot or trademark.
3. Schools and departments that contract with vendors for printing services that include Board trademarks, must ensure that there is a written agreement that protects Board trademarks from unauthorized use by the vendor beyond the printing services that the company was contracted to perform. Assistance may be provided by the School Board Attorney's Office.

Which groups are prohibited from using Board trademarks?

1. Members of the general public, other groups not previously listed, outside organizations, vendors, commercial manufacturers, commercial entities, wholesalers, and retailers are prohibited from using Board trademarks without a written licensing agreement with the Board in accordance with administrative procedures implementing this policy.
2. Production of any merchandise with Board trademarks for sale or distribution is prohibited unless the vendor has a written licensing agreement with the Board that may be subject to royalty payments.
3. The use of Board trademarks to promote a commercial entity, or which states or implies an endorsement, or approval of a product, service, or company, is prohibited unless the commercial entity has a licensing agreement with the Board.

What uses of trademarks would be considered inappropriate and not permitted?

Trademark(s) shall not be used in connection with the following products or in any other manner that would injure the reputation of the Board, M-DCPS or any school. Prohibited uses include, but are not limited to:

1. Alcoholic Beverages- distilled alcohol liquors, wines, beers, and malt liquors or the conveyance or distribution of these items.
2. Tobacco Products- all types.
3. Controlled Substances
4. Inherently Dangerous Products- firearms, weapons, explosives, knives, and fuels.
5. Obscene or Disparaging Products- including, but not limited to, nude photographs, caricature poster art or designs.
6. Religious products or designs
7. Political products or design
8. Gambling

Who can utilize the funds received from use of trademarks?

The written approved use of trademarks is intended to generate revenue that will support interscholastic athletics and activities at the secondary level and special programs and activities at the elementary level, and other Miami-Dade County Public Schools (M-DCPS) programs.

Can a school enter into an agreement with the general public for the use of a Board trademark?

No. The principal will present the written licensing agreement to School Operations who will then present the written licensing agreement to the School Board Attorney's Office for legal review.

What if another School Board Policy conflicts with the provisions in the Trademark Licensing and Use Board Policy?

- According to the Board Policy 9701 – Trademark Licensing, Protection and Use, this policy supersedes any prior Board Policy.

ATTACHMENT 1

The School Board of Miami-Dade County Bylaws & Policies

Unless a specific policy has been amended and the date the policy was revised is noted at the bottom of that policy, the Bylaws and Policies of the Miami-Dade County Public Schools were adopted on May 11, 2011 and were in effect beginning July 1, 2011.

9701 - TRADEMARK LICENSING, PROTECTION, AND USE

The School Board (District) seeks to protect its reputation, interest, and the public at large, by prohibiting the unauthorized use of trademarks, images, logos, mascots, names, phrases, symbols or other indicia that are associated with the District (marks).

Many of the Board's marks are officially registered trademarks with the United States Patent and Trademark Office and/or the Florida Department of State in order to provide notice to the public of the Board's ownership of the mark, create a legal presumption of ownership nationwide and/or Statewide, and establish the exclusive right to use the marks on or in connection with the goods or services set forth in the registration. The Board also possesses unregistered common law rights in other marks.

Members of the public seeking to use Board marks must enter into a licensing agreement with the Board in accordance with administrative procedures developed by the Superintendent to implement this policy. The Superintendent is authorized and responsible for informing the public on how to conduct business with the Board under this policy.

Definitions

License - a limited term contract between the Board and an entity or individual granted permission to use Board marks in connection with providing goods or services. A fee may be charged for licenses. All goods or services must be approved by the Board in a manner that allows it to control the nature and quality of the goods and services in accordance with the administrative procedures that implement this policy.

License Agreement - an agreement which may include royalties to the Board if a vendor proposes to provide goods or services' using any of the Board's marks and that provides the Board with control over the manner in which the marks are used and the nature and quality of the goods or services offered under the agreement.

District and School Non-Commercial Permitted Uses

The Board's marks may be used as follows:

- A. District students, student organizations, and school groups may use District marks to promote a group of students, an activity or event, a school, or the District if the use is in connection with approved school-related activities and is for non-commercial, educational purposes. No charge, prior approval, or license agreement is required under this provision for such use. This permission may be revoked if the use is improper or does not conform to this policy and the administrative procedures implementing this policy.

- B. School principals may provide written permission to parent organizations, community groups, school affiliated organizations, booster clubs, and other District affiliated school support organizations, to use Board marks to promote a group of students, an activity or event, a school, or the District, if the use is in connection with approved school-related activities. While written permission is required to allow the Board to retain full right to control the manner in which the marks are used and to approve the nature and quality of any goods or services offered, no charge or fee is required under this provision for such non-commercial, educational use.
 - 1. At any time, the Principal may give written permission on the Board's behalf for each fiscal year for these organizations to use the Board's marks for that school. At the Principal's discretion, this authorization may be revoked at any time if the Principal determines that the organization has failed to comply with the terms of this policy. If such a determination is made, the Principal will notify the organization in writing of the reason for the revocation. The organization may appeal the revocation to the Superintendent whose decision will be final. The appeal must be filed in writing with the Superintendent no later than five (5) business days from the date of the Principal's letter. In the event of a revocation, the organization shall no longer be authorized to use Board marks.

 - 2. Schools and departments that contract with any individual or entity for commercial use of the Board's marks must ensure that there is a written agreement in a form approved by Board attorney's office that protects the Board marks from unauthorized use. Further assistance with such agreements may be provided by the Board attorney's office upon request.

Public and Commercial Permitted Uses- Licensing Agreements

- A. Members of the general public, other groups not previously listed, outside organizations, vendors, commercial manufacturers, commercial entities, wholesalers, and retailers are prohibited from using Board marks without a written license agreement with the Board in accordance with this policy and the administrative procedures implementing this policy.

- B. Production of any merchandise with Board marks for sale or distribution is prohibited unless the vendor has a written license agreement with the Board that may be subject to the payment of royalties.
- C. The use of Board marks to promote a commercial entity, or which states or implies an endorsement, or approval of a product, service, or company, is prohibited unless the commercial entity has a license agreement with the Board.

Prohibited Uses

Mark(s) shall not be used in connection with the following products or in any other manner that would injure the reputation of the Board, District or any school or cause the Board to lose the ability to enforce its exclusive rights in the mark(s). Prohibited uses include, but are not limited to:

- A. alcoholic beverages - distilled alcohol liquors, wines, beers, and malt liquors or the conveyance or distribution of these items;
- B. tobacco, smoking, and vapor products - all types;
- C. controlled substances;
- D. inherently dangerous products - firearms, weapons, explosives, knives, and fuels;
- E. obscene or disparaging products - including, but not limited to, nude photographs, caricature poster art, or designs;
- F. religious products or designs;
- G. political products or design;
- H. gambling; or
- I. products that promote sexual conduct or contain sexually explicit materials.

Board Authority

The Board has the sole right to approve or reject, in all cases, at any time, and at its sole discretion, any and all future license agreements, proposals, contracts, and/or to approve or reject any organization's use of Board marks.

Commercial licensees shall indemnify and hold the District harmless from any claims, including those for bodily injury and intellectual property right infringement, arising out of the use or licensing of Board marks.

School Site Responsibilities

In accordance with administrative procedures implementing this policy, Principals shall:

- A. ensure that Board marks are only used with authorization from the District and in a manner that provides the Board with control over the manner in which they are used and the goods or services that are offered in connection with the marks;
- B. account for all funds received by the school from license agreements or associated with the use of Board marks;
- C. prohibit the commercial use of any Board marks unless the commercial entity has an approved and executed license agreement; and
- D. report any known violations of this policy.

Revenue Distribution

- A. Revenues generated from licensing agreements negotiated by the Principal will be shared with the District at a ratio of sixty percent (60%) to the school and forty percent (40%) to the District, with the school's share retained for internal fund purposes.
- B. 100% of revenues generated from licensing agreements negotiated by the District may be retained by the District or distributed equitably to schools as stipulated in the agreement.

Enforcement

Any unauthorized use of Board marks, whether registered or common law is a violation of Federal and/or State law governing trademark infringement and unfair competition. Violations are subject to injunctive relief restraining further infringement, money damages including profits derived from the wrongful sale or provision of trademarked goods or services and an order requiring destruction of any such counterfeit or imitations in the offender's possession.

The Board will take action to enforce its exclusive rights in Board marks where necessary. Employees are subject to disciplinary action for violations of this policy.

15 U.S.C. 1051 et seq.

Adopted 3/9/16

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TRADEMARK LICENSE

BOOSTER / PTA CLUBS

This License Agreement (“Agreement”), effective as of the date signed by both parties (the “Effective Date”), by and between, the LICENSOR, THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA, a political subdivision of the State of Florida whose principal address is 1450 NE 2 Avenue, Miami, Florida 33132 hereinafter referred to as “BOARD” and _____, a Not for Profit organized under the State of Florida whose principal address is _____, hereinafter referred to as “LICENSEE”.

WHEREAS, BOARD is the owner of the trademarks hereinafter referred to as “Marks” listed on the attached Exhibit A; and

WHEREAS, LICENSEE desires to obtain from BOARD a non-exclusive license to use the Marks for hereinafter referred to as “School” in connection with the manufacture, sale, distribution and promotion of the goods/services listed on attached Exhibit B (“Licensed Product(s)”) in the United States; and

NOW, THEREFORE, for good and valuable consideration, the parties, each intending to be legally bound hereby, do promise and agree as follows.

1. Warranties. BOARD represents and warrants to and covenants with LICENSEE that BOARD is the owner of the Marks, and has the right and authority to grant the rights granted to LICENSEE in this Agreement.
2. License Grant. BOARD grants LICENSEE the non-exclusive, non-assignable, non-sub licensable right to manufacture, sell, package, distribute, promote and advertise, in Miami-Dade County only, the Licensed Product(s) carrying the Marks.
3. Quality and Approval. High product quality and accurate reproduction of the Marks are of uppermost importance. The BOARD may request that LICENSEE submit to School sample(s) of all Licensed Product(s), packaging, advertising and other materials bearing the Marks for approval before LICENSEE advertises, publishes, sells or uses them. LICENSEE will comply with all applicable government regulations. LICENSEE will furnish sample(s) on reasonable request. LICENSEE may subcontract the manufacturer of the Licensed Product(s) without School’s prior written approval for the limited scope and purpose to manufacture the approved product. Attached hereto and incorporated herein is Exhibit C- Form 6570 and Exhibit D- Form 6571 which shall be completed and approved as required for each fund-raising activity using the School’s Marks.
4. Artwork. On request, BOARD will provide to LICENSEE artwork, photographs, drawings, samples, graphic standards or other materials that LICENSEE may reasonably require regarding the Marks. If requested, LICENSEE will submit any new designs on artwork prepared by or for it, incorporating the Marks, to School. BOARD will be the owner of any material produced or used by LICENSEE that incorporates the Marks.

5. **Best Efforts.** LICENSEE will use its best efforts to promote, market, sell, and distribute the Licensed Products.
License Fee. BOARD grants permission for recognized PTA, PTO, Booster Clubs, and student groups the use of Mark's and Logos of the District without charge for activities associated with the school district.
6. **Renewal.** Provided that LICENSEE has remained in compliance with the other terms of this Agreement, this Agreement may renew for subsequent one-year periods upon written mutual confirmation.
7. **Limitations.** LICENSEE will not use BOARD's name or Marks in its business except in accordance with this Agreement and will not combine the Marks with any other marks, names or symbols without BOARD's written consent. LICENSEE shall abide by School Board Policy 9701, incorporated herein.
8. **Trademark Ownership.** LICENSEE hereby acknowledges that BOARD is the sole and rightful owner of the Marks and all goodwill associated with the Marks and that BOARD and its permitted successors and assigns shall retain full right to the Marks, and all goodwill and registrations associated therewith. LICENSEE will not alter, modify, dilute or misuse the Marks; bring them into disrepute; or dispute or otherwise challenge the ownership, title, strength or validity of the Marks. Ownership. LICENSEE expressly recognizes that the Marks are the unique, valid and exclusive property of BOARD. LICENSEE agrees that it shall not, either during the Term or thereafter, directly or indirectly, contest the validity of the Marks or any of the registrations pertaining thereto, in the United States, Florida, or elsewhere, nor adopt the Marks or any term, word, mark or designation which is in any aspect confusingly similar to the Marks. LICENSEE specifically acknowledges that any use of the Marks pursuant to this Agreement shall not create for LICENSEE any right, title or interest in the Marks. If by operation of law or otherwise, LICENSEE obtains any rights in the Marks, LICENSEE shall assign all rights to the Marks to BOARD. LICENSEE further agrees that it will not at any time do or cause to be done any act or thing, directly or indirectly, which contests or in any way impairs or tends to impair any part of the right, title and interest of BOARD in the Marks; and LICENSEE shall not, in any manner, represent that it has any ownership interest in the Marks or the registrations therefor. All rights in and to the Marks other than those specifically granted herein to LICENSEE are reserved to BOARD.
9. **Trademark Protection.** LICENSEE will not attempt to register the Marks with any state or federal governmental office of the United States or any foreign governmental office. At BOARD's request, LICENSEE shall execute all documents reasonably required by BOARD to confirm BOARD's ownership of all rights in and to the Marks and the respective rights of BOARD and LICENSEE under this Agreement. LICENSEE shall cooperate with BOARD in connection with the filing and prosecution by BOARD of applications in BOARD's name to register the Marks and the maintenance and renewal of such registrations as may issue.
10. **Infringements.** LICENSEE will immediately advise BOARD of any actual or suspected third party infringements of any of the Marks. BOARD will have the sole right to take legal action. LICENSEE will provide BOARD all reasonable cooperation and assistance in connection with

such disputes. LICENSEE also will cooperate with BOARD to otherwise protect, defend and enforce the Marks.

11. Sublicensing. BOARD acknowledges that LICENSEE may need to enter into sublicenses concerning the MARKS in connection with the manufacture or distribution of Products authorized pursuant to this Agreement. In the event LICENSEE intends to enter into a sublicense of its rights hereunder or enter into any other agreement that has the effect of sublicensing any of its rights hereunder to a third party, LICENSEE may enter into such an agreement so long as such agreement (a) is, by its terms, subordinate to the license granted by BOARD hereunder, (b) automatically terminates upon the termination of this Agreement, (c) does not permit the sub-licensee to take any action that LICENSEE is prohibited from taking hereunder and (d) shall be in writing. LICENSEE shall promptly provide BOARD with a copy of any such agreement entered into by LICENSEE.
12. Product Liability. BOARD is not responsible for the Licensed Product(s).
13. Indemnification. To the fullest extent permitted by law, the LICENSEE shall indemnify and hold harmless the Board, and its employees (“Indemnitees”) from and against all claims, liabilities, damages, losses, and costs including, but not limited to, reasonable costs and attorneys’ fees at the pre-trial, trial and appellate levels, arising out of, resulting from or incidental to LICENSEE’s performance under this Agreement or to the extent caused by negligence, recklessness, or intentional wrongful conduct of the LICENSEE or other persons employed or utilized by the LICENSEE in the performance of this Agreement. The remedy provided to the Indemnitees by this indemnification shall be in addition to and not in lieu of any other remedy available under the Agreement or otherwise. This indemnification obligation shall not be diminished or limited in any way to any insurance maintained pursuant to the Agreement otherwise available to the LICENSEE. The remedy provided to the Indemnitees by this indemnification shall survive this Agreement. The provisions of this Section shall specifically survive the termination of this Agreement. The provisions of this Section are intended to require the LICENSEE to furnish the greatest amount of indemnification allowed under Florida law. To the extent any indemnification requirement contained in this Agreement is deemed to be in violation of any law, that provision shall be deemed modified so that the LICENSEE shall be required to furnish the greatest level of indemnification to the Indemnitees as was intended by the parties hereto.
14. Duty to Defend. The LICENSEE agrees, at its own expense, and upon written request by the Board, to defend any suit, action or demand brought against the School Board on any claim or demand arising out of, resulting from or incidental to LICENSEE’s performance under this Agreement.
15. Termination. This Agreement shall terminate one year from the Effective Date, unless:
 - a. renewed as provided by this Agreement; or
 - b. sooner terminated by:
 - i. either party, without cause, upon thirty (30) days written notice; or
 - ii. BOARD, upon thirty (30) days written notice if LICENSEE breaches this Agreement, unless LICENSEE cures its breach to BOARD during the thirty (30) day period.

Paragraphs 7 and 17 through 23 shall survive expiration or termination of this Agreement.

16. Remedies. Upon LICENSEE's default or breach of this Agreement; any infringement by LICENSEE of BOARD's trademark, copyright or other proprietary rights; defamation or other actionable claims, BOARD may recover from LICENSEE all expenses, attorney's fees and costs incurred in any resulting legal action. Any such default or breach will irreparably harm BOARD. For resolution of any dispute under this Agreement that is not submitted to alternative dispute resolution, the parties will submit to the personal jurisdiction of the Federal courts of the Southern District of Florida and state courts within Miami-Dade County, Florida.
17. Waiver. Any waiver of a breach by either party shall not be a waiver of any subsequent or other breach.
18. Entire Agreement. This Agreement contains the entire agreement between BOARD and LICENSEE with respect to the Marks, and supersedes all other negotiations, agreements and representations, whether in writing or oral. This Agreement will be binding upon and shall inure to the benefit of BOARD's successors and assigns and LICENSEE's successors and assigns.
19. Captions. The captions used in connection with the paragraphs of this Agreement are inserted only for the purpose of reference. Such captions shall not be deemed to govern, limit, modify or in any other manner affect the scope, meaning or intent of the provisions of this Agreement or any part thereof; nor shall such captions otherwise be given any legal effect.
20. Severability. If any part of this Agreement is held invalid or unenforceable, such provision shall be given the maximum effect permitted under applicable law and be replaced with a valid and enforceable provision that most closely reflects the intention of the parties, and the remainder of this Agreement will remain valid and fully enforceable.
21. Modification. This Agreement may be amended or modified only by a written agreement signed by BOARD and LICENSEE.
22. Applicable Law. This Agreement will be governed by the laws of the State of Florida without regard to the State of Florida's conflict of law's provisions. LICENSEE shall abide by all applicable School Board Policies.
23. Notices. Notices shall be received when delivered in person, sent by overnight courier or mailed by certified first class mail to:
24. School Board's Address. The address for the School Board for all purposes under this Agreement and for all notices hereunder shall be:

The School Board of Miami-Dade County, Florida

Attn: Alberto M. Carvalho, Superintendent

1450 N.E. Second Avenue, Suite 912

Miami, Florida 33132

With a copy to:

The School Board of Miami-Dade County, Florida

Address:

And a copy to:

The School Board of Miami-Dade County, Florida

Attn: Walter J. Harvey, School Board Attorney

1450 N.E. Second Avenue, Suite 430

Miami, Florida 33132

LICENSEE:

28. Authorization. Those signing are authorized to bind BOARD and LICENSEE to the terms of this Agreement.

LICENSEE

Organization Representative Signature

Date

Print Name

THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA

Center Principal

Date

(Superintendent of Schools or Designee)

Date

EXHIBIT A

Marks

The Marks covered by this Agreement are:

[See attached]

EXHIBIT B

Licensed Products

The Licensed Products covered by this Agreement:

EXHIBIT C- Form 6570

Exhibit D- Form 6571

