

Department of Legislative Services  
Maryland General Assembly  
2013 Session

FISCAL AND POLICY NOTE

House Bill 1393  
Ways and Means

(Delegate O'Donnell, *et al.*)

Education, Health, and Environmental Affairs

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**Public Schools - Student Work Product - Claim of Copyright Prohibited**

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This bill prohibits a local board of education from claiming ownership rights, property rights, or the copyright to the student work product of a public school student. "Student work product" includes written reports, essays, tests, and homework; personal class notes; art projects; and computer software.

The bill takes effect July 1, 2013.

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**Fiscal Summary**

**State Effect:** None.

**Local Effect:** None. It is assumed that the bill codifies current practice.

**Small Business Effect:** None. Small businesses that benefit from the work products of current or past public school students may continue to do so.

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**Analysis**

**Current Law:** Title 17 of the U.S. Code provides protection to the authors of "original works of authorship," including literary, dramatic, musical, artistic, and certain other intellectual works. This protection is available to both published and unpublished works. Section 106 of the 1976 Copyright Act generally gives the owner of copyright the exclusive right to do and to authorize others to do the following:

- reproduce the work in copies or phonorecords;
- prepare derivative works based upon the work;

- distribute copies or phonorecords of the work to the public by sale or other transfer of ownership, or by rental, lease, or lending;
- perform certain work (*e.g.*, musical or dramatic work) publicly; and
- display the work publicly.

Authors of works of visual art have certain additional rights. While it is illegal to violate any of the rights provided by the copyright, there are certain exemptions from copyright liability, including “fair use” which is detailed in section 107 of the 1976 Copyright Act.

The Technology, Education, and Copyright Harmonization (TEACH) Act of 2002 amended copyright law by addressing issues related to the use of copyright-protected materials in distance learning courses. The TEACH Act is intended to balance the needs of distance learners and educators with the rights of copyright holders. Circular 21, issued by the U.S. Copyright Office, provides information on the reproduction of copyrighted works by educators, librarians, and archivists for purposes including teaching, study, research, interlibrary exchanges, and archival preservation.

**Background:** The Prince George’s County Board of Education took no action on a proposal before the board in 2013 that would have, in addition to other provisions about copyrighted materials, stated that certain works created by employees and/or students are properties of the board.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Prince George’s County, Maryland State Department of Education, Department of Legislative Services

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ncs/rhh

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