

THE FOWLER LAW FIRM PC



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THE FOWLER LAW FIRM NEWLSETTER

More Summer Fun for Texas Public School and College Administrators... Protecting Your Educational Institution's Intellectual Property

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Submitted by Laura S. Fowler JD and J. Nevin Shaffer JD, Attorneys at Law with The Fowler Law Firm PC

Dear Readers,

While many of you are just now taking a deep breath and reaching for that summer "To Do" list that got stuffed in your drawer or electronically "archived" somewhere, your authors would like to recommend something for your list that most public school and college administrators don't spend much time thinking about. Yes, we can only be talking about protecting your institution's intellectual property rights. If you do it now, it is pretty easy... but after someone tries to take advantage of your institution, it is too late to do anything.

Yes, we know what you're thinking: isn't your intellectual property in the Public Domain? After all, you are a public institution. What is there to protect? The answer is "a lot more than you might think!"

Have you ever retained a consultant to create textbooks or other instructional materials? Well, what if this consultant then went around selling those materials to other educational institutions, institutions that might have otherwise thought about purchasing yours, or entering into a cooperative with you or sharing something that you needed if you were willing to waive your fees for use? The shameful misconduct of the consultants who do this is unforgivable but it is not punishable, and can easily be stopped if you define in a simple contract the rights your institution wants to retain. Otherwise the consultant or contractor to whom you paid **big bucks** owns the rights!

You must also be aware of another terrible and seductive vampire: the software designer. This individual will show up promising stunning electronic capabilities and other things that make you weak in the knees, and then vanishes just as soon as the check your institution paid him clears, only to surface three counties away selling the very same thing to other institutions. And you were planning to sell it to them yourself! Worst of all, he's even learned who it was you were planning to offer these services to... because **you** told him so he could design the software! It is easy enough to stop these vampiric pests, but in lieu of a stake and a cross you just need a single contract clause. Consultants who violate your carefully drawn clauses are liable for civil damages and, even better, they commit a criminal offense each time they use or attempt to transfer the property rights you paid them to create!

In addition to protecting your copyrights, you must also protect against those who would infringe upon your assets. A common parasite that you will encounter is the consultant (with all the integrity of a snake oil salesman) who sells you something and then rushes out to change his marketing materials to feature **you** and your educational institution. Have you ever walked through a large educational conference exhibit hall and seen your educational institution's name on display at a booth and with a vendor you didn't really like? This happens all the time, but you can stop it with one simply worded penalty clause!

Both public schools and colleges have a tremendous number of assets, and these include intangible assets like the ones described above that have value perhaps not in resale so much as in joint use in cooperative agreements. Regional Education Service Centers, purchasing cooperatives, and school districts can all benefit from redrawing their contracts with employees and consultants to protect those things for which they have paid in good faith with an expectation that their institution's ownership would continue and grow in value.

*Did you find these materials helpful and practical? Then don't miss the opportunity to enjoy the all new and up to date 2008 edition of *Protect Your Great Ideas and Assets* currently being adopted for use by many universities and by practicing administrators in a variety of institutions in Texas. Proceeds from the sales support scholarships to deserving students. To order the current book, a complete information system or to learn more about about THE FOWLER LAW FIRM FOUNDATION and its scholarships, or to learn more about its authors Nevin Shaffer and Laura Fowler, link to www.thefowlerlawfirm.com, <http://www.thefowlerlawfirm.com/program1.html> and <http://www.thefowlerlawfirm.com/howitworks.html>.*

You can hear Mrs. Fowler speak on this and other related topics at the following conferences throughout Texas this summer:

Texas Association of School Business Officials' 2008 Maintenance and Operations Academy on June 10, 2008 at Tivy High School in Kerville, Texas. Mrs. Fowler will be presenting from 10 AM to 11 AM in the Band Hall on issues related to personnel and labor law and will also be featured in a group panel discussion from 1 PM to 2:30 PM in the Band Hall. For more information, please visit http://www.tasbo.org/calendar_of_events.htm.

Texas Association of Secondary School Principals' 2008 Summer Workshop Legal Digest Law Conference on June 11, 2008 at the Austin Convention Center in Austin, Texas. Mrs. Fowler will be presenting from 9 to 10 AM in Room 10A/B on *How to Avoid Getting Sued, Grieved or Indicted – Is the Campus Principal in Charge of EVERYTHING?* For more information, please visit <http://www.tassp.org/displaycommon.cfm?an=1&subarticlenbr=108>.

Texas Association of Community College Business Officers' 2008 Conference on June 11, 2008 at the Waco Convention Center in Waco, Texas. Mrs. Fowler will be presenting from 3 PM to 5 PM in McLennan 1 on common concerns related to purchasing. For more information, please visit <http://www.taccbo.org/>.

TASBO's Alamo Area Association of School Business Officials' 12th Annual Summer Conference on June 13, 2008 at Tivy High School in Kerville, Texas. Mrs. Fowler will be presenting from 11 AM to 12 PM in Room A108 on the topic *How a Texas School District Business Official Avoids Getting*

Sued, Indicted or Fired... in One Easy Lesson". For more information, please visit <http://65.205.109.51/PDFs/May06.pdf>.

Texas Council of Women School Executives' Summer Conference on June 21, 2008 at the Renaissance Austin Hotel in Austin, Texas. Mrs. Fowler will be presenting from 10:45 AM to 12 PM on *Personnel Law Points that Everyone Can Follow*. For more information, please visit <http://www.tcwse.org/conference/summer/2008/summer08.html>.

San Antonio Texas Community College Human Resources Professionals on June 23, 2008.

National Association of Purchasing Managers' Momentum 2008 on June 25, 26 and 27, 2008 at the Bahia Mar Resort in South Padre Island, Texas. Mrs. Fowler will be presenting on June 25 from 1:05 to 1:30 PM in Class W1a on *Tough Talk about Municipalities, Counties and Other Political Subdivisions – Construction Procurement* in and from 2 to 2:30 PM in Class W2a on *Purchasing People: Labeling People, a Few Words of Caution*. She will be presenting on June 26 from 8-9 AM in Classroom C on *Insurance Purchasing Requirements*. For more information, please visit <http://www.napmrgv.org/momentum/momentum.htm>.

Laura Fowler and THE FOWLER LAW FIRM P.C. are so grateful to so many of you who have helped to make our firm a success. *The Fowler Law Firm P.C. is a full service law firm whose attorneys have many years of experience in the handling of education institution issues, both public and private, non-profit associations, real estate, family law, probate and estate, business formation and taxation and all aspects of copyright, trademarks and patents. We never charge a client a fee or incur any expense until the client understands and agrees. In addition, we often counsel with your clients and friends and give them the information they need at no charge when we cannot truly be of service. For more information or to refer a matter to us please contact us at (512) 441-1411 or visit our website at www.thefowlerlawfirm.com.*

This information is provided by Laura S. Fowler JD, and J. Nevin Shaffer JD, Attorneys at Law with The Fowler Law Firm PC. It is not intended as a substitute for careful review by legal counsel of your choosing. We would be most honored to assist you in your every real legal need.

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As with any legal issues, please consult your attorney with questions.