

GUIDELINES FOR USE OF COPYRIGHTED MATERIALS

A. Limitations on Exclusive Rights: Fair Use

Many provisions of the federal copyright law affect the educational uses of copyright materials but the most generally applicable is Section 107 – Fair Use. “Fair use” applies four basic standards, which must be considered together when judging whether or not there has been a copyright infringement:

1. The purpose and character of the use. Is the copying being done for commercial or educational purposes?
2. The nature of the copyrighted work. Was the original work intended to be consumable?
3. The amount and substantiality of the portion used in relation to the copyrighted work as a whole. How much is being copied? How important is the copied part to the entire work? How many copies are being made?
4. The effect of the use upon the potential market for or value of the work. Will the copyright owner suffer financial loss?

B. Definitions

1. Brevity – amount of material that can be copied from a work.
 - a. Poetry -
 - A complete poem if less than 250 words and if printed on not more than two pages.
 - If from a longer poem, an excerpt of not more than 250 words.
 - b. Prose -
 - A complete article, story or essay of less than 2,500 words; or,
 - An excerpt from any prose work of not more than 1,000 words or 10 percent of the work, whichever is less, but a minimum of 500 words.

(Each of the numerical amounts stated above for poetry and prose may be expanded to permit the completion of an unfinished line of a poem or of an unfinished prose paragraph.)
 - c. Illustration – One chart, graph, diagram, drawing, cartoon or picture per book or per periodical issue.
 - d. Special Works – Certain works in poetry, prose or in “poetic prose” that often combine language with illustrations (i.e., picture books) fall short of 2,500 words in their entirety. Not more than two of the published pages and containing not more than 10 percent of the words found in the text may be reproduced.
2. Spontaneity – timing of using the work.
 - a. The copying is at the instance and inspiration of the individual teacher.
 - b. The inspiration and decision to use the work and the moment of its use for maximum teaching effectiveness are so close in time that it would be unreasonable to expect a timely reply to a request for permission.
3. Cumulative Effect – amount of the work that is copied over time.
 - a. Copies are made for only one course in the school in which the copies are made.

- b. Not more than one short poem, article, story, essay or two excerpts may be copied from the same author, nor more than three from the same collective work or periodical volume during one class term.
- c. There shall not be more than nine instances of such multiple copying for one course during one class term.

(The limitations stated shall not apply to current news periodicals and newspapers and current news selections of other periodicals.)

C. Specific Copyright Guidelines for Instructional Materials

The following copyright guidelines are not comprehensive and do not absolve the staff from complying with all aspects of the law.

1. Print, Music and Audiovisual Materials:

- a. According to the concept of “fair use” as outlined above, a single copy of any of the following may be made by or at the individual request of a staff member for research or use in teaching:
 - A chapter from a book;
 - An article from a periodical or newspaper;
 - A short story, short essay or short poem whether or not from a collective work;
 - A chart, graph, diagram, drawing, cartoon or picture from a book, periodical or newspaper.
- b. Multiple copies (not to exceed more than one copy per student) may be made by or at the request of an individual staff member for classroom use provided that:
 - The copying meets the tests of brevity and spontaneity as defined in Section B above;
 - The copying meets the cumulative effect test as defined in Section B above;
 - Each copy includes a notice of copyright.
- c. Notwithstanding any of the above, the following shall be prohibited:
 - Copying of or from works intended to be “consumable” including, but not limited to, workbooks, exercises, standardized tests and answer sheets;
 - Copying to create or replace anthologies;
 - Copying to substitute for the purchase of material;
 - Copying directed by a higher authority that would violate these guidelines;
 - Repeated copying of the same item by the same staff member from term to term.

2. Video Recordings:

- a. Copies of any of the following video recordings may be made by or at the individual request of a staff member for classroom use:
 - “In house” productions;
 - Uncopyrighted works or works in the public domain;
 - Copies made under “permission to copy” arrangements.
- b. The following broadcast television programs may be copied off-air by or at the individual request of a staff member for classroom use:
 - Instructional television programs (subject to any specific rights limitations);
 - Broadcast programs provided they are used within 10 school days of the original broadcast;
 - Programs with specified “permission to copy” arrangements.
- c. Programs may be copied off cable television only if permission to use a given program has been granted to all educators, or specifically to an individual teacher

who has requested said permission. The publication Cable in the Classroom should be used to determine which, if any, rights have been granted for educational use.

- d. Taking the above into consideration, the following shall be prohibited:
 - Copying from premium channels (HBO, The Disney Channel, Showtime, Cinemax, etc.) or non-broadcasted channels (ESPN, MTV, Nickelodeon, Arts and Entertainment, etc.);
 - Duplicating copyrighted video recordings;
 - Copying from one format to another;
 - Copying off-air or cable programs for the purpose of entertainment or reward;
 - Copying programs off broadcast or cable television at home for use in a school, except as allowed in item (b) of this section;
 - Using illegally obtained copies of video recordings in a school setting.
 - e. Rented or purchased “Home Use Only” video recordings may be used in the classroom as part of face-to-face instruction only. They may not be used for the purpose of entertainment or reward.
 - f. The viewing of video recordings with “Public Performance Rights” is not restricted.
3. Computer Software:
- a. Section 117 of the copyright law grants to the purchaser the right to copy a computer program if and only if:
 - Such a copy is an essential step in the utilization of the program in conjunction with a machine; or
 - The copy is for archival purposes.
 - b. The following computer software may also be copied by or at the individual request of a staff member for classroom use:
 - “In house” productions;
 - Uncopyrighted works or works in the public domain.
 - c. Material may be digitized using a computer scanner or similar device, if it is uncopyrighted work or a work in the public domain, or if it meets the “fair use” test outlined in Section A above.
 - d. Material may be uploaded or downloaded, if it is uncopyrighted work or a work in the public domain or if it meets the ‘fair use’ test outlined in section A above.
 - e. Notwithstanding the above, the following shall be prohibited:
 - Copying copyrighted programs on District equipment;
 - Using illegal copies of copyrighted programs on District equipment;
 - Purchasing programs designed primarily as “break and entry” tools with District, state or federal funds;
 - Booting single copies of copyrighted programs into more than one machine without authorization from the copyright holder;
 - Using “archival” copies of software as additional copies;
 - Digitizing copyrighted material without permission from the copyright holder, using a computer scanner or similar device regardless of whether the copyrighted material is textual, graphic, photographic, video, audio or any other medium;
 - Downloading any copyrighted material without permission from the copyright holder from the Internet or other sources;

- Making copies of downloaded (or uploaded) material on other computer storage mediums, such as by copying a downloaded file onto a computer disk or hard drive, without permission from the copyright holder.
 - f. Staff members shall also adhere to state law provisions concerning the copying of data, information and computer programs or supporting documentation.
 - g. Educators and students should be aware that reproduction or decompilation of copyrighted computer programs and portions thereof, for example the transfer of underlying code or control mechanisms, even for educational uses, are outside the scope of these guidelines.
4. Music:
- a. Permissible uses include:
 - Emergency copying to replace purchased copies, which are unavailable for an imminent performance;
 - Making copies of excerpts of works for academic purposes;
 - Editing or simplifying purchased works provided that the fundamental character of the work is not changed;
 - Making a single copy recording of a student performance;
 - Making a single copy of a copyrighted sound recording for the purpose of an aural exercise or examination.
 - b. Notwithstanding the above, the following shall be prohibited:
 - Copying to create or replace anthologies;
 - Copying of or from works intended to be “consumable” including but not limited to worksheets, exercises, test and answer sheets;
 - Copying for the purpose of performance, except for emergency use allowed in item (a) of this section;
 - Copying to substitute for the purchase of material;
 - Copying without the inclusion of the copyright notice.
5. Libraries:
- a. According to the proviso of Section 108 of the copyright law, a library of any of its employees acting within the scope of the employment may reproduce copies of print works and phonorecords under the following specific circumstances:
 - Purposes of preservation;
 - Purposes of private study, scholarship or research;
 - Purposes of interlibrary loan.
 - b. Notwithstanding any of the above, the following shall be prohibited:
 - Copying for direct or indirect commercial advantage;
 - The systematic reproduction for distribution of single or multiple copies;
 - Copying to substitute for a subscription to a work or the purchase of a work.
 - c. The proviso under Section 108 does not apply to musical, pictorial, graphic, sculptural, motion picture or audiovisual works.
 - d. Copies made under the proviso of Section 108 for interlibrary loan must include the notice of copyright.

D. Educational Multimedia

Fair use guidelines apply to student or teacher-created multimedia projects incorporating copyrighted works. Fair use ends when the multimedia project creator (educator or student) releases the project for general use, such as when others access it over the Internet or on a non-closed circuit distribution system. If broader dissemination

occurs, the creator must then obtain permissions for all copyrighted portions and must include on the opening screen of the program that their presentation has been prepared under the fair use exemption of the U.S. Copyright Law and is restricted from further use.

E. Use of Copyrighted Materials in Distance Education Courses

The use of certain copyrighted materials in distance education courses, without permission by faculty and students, is permitted. According to the Technology, Education and Copyright Harmonization Act (TEACH Act), it is not copyright infringement for faculty and students of accredited, nonprofit education institutions to transmit performances or display copyrighted works as part of a course if certain conditions are met. If these conditions are not or cannot be met, use of the material will have to qualify as a “fair use,” or permission from the copyright holder must be obtained.

F. Use of Peer-to-Peer File Sharing

The District expects all employees and students to use electronic communications and computer resources made available through the District in a responsible way and to comply with copyright laws relative to such use. Peer-to-peer file sharing of copyright material is not allowed.

G. Web Page Information

Web based material is copyrighted just as print and audiovisual materials are and fair use guidelines apply.

H. Licenses and Contracts

Educators and students should determine whether specific copyrighted works, or other data or information are subject to a license or contract. Fair use and these guidelines shall not preempt or supersede licenses and contractual obligations.

Local Ref.: Policy #771 – Use of Copyrighted Materials