

Copyright Compliance

The board recognizes that federal law makes it illegal to duplicate copyrighted materials without authorization of the holder of the copyright, except for certain exempt purposes.

Severe penalties may be imposed for unauthorized copying or using of audiovisual or printed materials and computer software, unless the copying or using conforms to the "fair use" doctrine.

Under the "fair use" doctrine, unauthorized reproduction of copyrighted materials is permissible for such purposes as criticism, comment, news reporting, teaching, scholarship or research. If duplicating or changing a product is to fall within the bounds of fair use, these four standards must be met for any of the foregoing purposes:

- A. **THE PURPOSE AND CHARACTER OF THE USE.** The use must be for such purposes as teaching or scholarship.
- B. **THE NATURE OF THE COPYRIGHTED WORK.** Staff may make single copies of: book chapters for use in research; instruction or preparation for teaching; articles from periodicals or newspapers; short stories, essays or poems; and charts, graphs, diagrams, drawings, cartoons or pictures from books, periodicals, or newspapers in accordance with these guidelines.
- C. **THE AMOUNT AND SUBSTANTIALITY OF THE PORTION USED.** Copying the whole of a work cannot be considered fair use; copying a small portion may be if these guidelines are followed.
- D. **THE EFFECT OF THE USE UPON THE POTENTIAL MARKET FOR OR VALUE OF THE COPYRIGHTED WORK.** If resulting economic loss to the copyright holder can be shown, even making a single copy of certain materials may be an infringement, and making multiple copies presents the danger of greater penalties.

While the district encourages its staff to enrich the learning programs by making proper use of supplementary materials, it is the responsibility of district staff to abide by the district's copying procedures and obey the requirements of the law. In no circumstances will it be necessary for district staff to violate copyright requirements in order to perform their duties properly. The district cannot be responsible for any violations of the copyright law by its staff.

Any staff member who is uncertain as to whether reproducing or using copyrighted material complies with the district's procedures or is permissible under the law should contact the superintendent or the person designated as the copyright compliance officer. The latter will also assist staff in obtaining proper authorization to copy or use protected material when such authorization is required.

The superintendent or designee will notify the Federal Copyright Office of the district's agent for receiving notifications that users of the district's Internet network have infringed copyright.

Cross Reference: Board Policy 2022 Electronic Information Systems (Network)

Legal References: P.L. 94-553 Federal Copyright Law of 1976 (U.S. Code, Title 17)
P.L. 105-304 Digital Millennium Copyright Act of 1998

Management Resources: *Policy News*, October 2001, Copyright Information Update

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Copyright Compliance

Staff may make copies of copyrighted school district materials that fall within the following guidelines. Where there is reason to believe that the material to be copied does not fall within these guidelines, prior permission shall be obtained from the principal. Staff members who fail to follow this procedure may be held personally liable for copyright infringement.

Authorized Reproduction and Use of Copyrighted Material in Print

Reminders:

- A. Materials on the Internet should be used with caution since they may be copyrighted;
- B. Proper attribution (author, title, publisher, place and date of publication) should always be given;
- C. Notice should be taken of any alternations to copyrighted works, and such alternations should only be made for specific instructional objectives; and
- D. Care should be taken in circumventing any technological protection measures. While materials copied pursuant to fair use may be copied after circumventing technological protections against unauthorized copying, technological protection measures to block access to materials may not be circumvented.

In preparing for instruction, a teacher may make or have made a single copy of:

- A. A chapter from a book;
- B. An article from a newspaper or periodical;
- C. A short story, short essay or short poem; or
- D. A chart, graph, diagram, drawing, cartoon or picture from a book, periodical or newspaper.

A teacher may make multiple copies of certain texts for classroom use or discussion if the copying meets the tests of “brevity, spontaneity and cumulative effect” set by the following guidelines. Copies may not exceed more than one per pupil, Each copy must include a notice of copyright.

A. **Brevity**

1. A complete poem, if less than 250 words and two pages long, may be copied; excerpts from longer poems cannot exceed 250 words;
 2. Complete articles, stories or essays of more than 500 words and less than 2500 words may be copied;
 3. Excerpts from prose works that are more than 500 words and less than 1000 words or 10% of the work, whichever is less, may be copied;
 4. Each numerical limit may be expanded to permit the completion of an unfinished line of a poem or prose paragraph;
 5. One chart, graph, diagram, drawing, cartoon or picture per book or periodical issue may be copied; and
 6. “Special” works cannot be reproduced in full; this includes children's books combining poetry, prose or poetic prose. Short special works may be copied up to two published pages containing not more than 10 percent of the work.
- B. **Spontaneity** – The copying should be at the “instance and inspiration” of the individual teacher when there is not a reasonable length of time to request and receive permission to copy.
- C. **Cumulative Effect** – Teachers are limited to using copied material for only one course in the school in which copies are made. No more than one short poem, article, story or two excerpts from the same author may be copied, and no more than three works can be copied from a collective work or periodical column during one class term. Teachers are

limited to nine instances of multiple copying for one course during one class term. Limitations do not apply to current news periodicals, newspapers and current news sections of other periodicals.

Performances by teachers or students of copyrighted dramatic works without authorization from the copyright owner are permitted as part of a teaching activity in a classroom or instructional setting. All other performances require permission from the copyright owner.

The copyright law prohibits using copies to replace or substitute for anthologies, consumable works, compilations or collective works. “Consumable works” include workbooks, exercises, standardized tests, test booklets and answer sheets. Teachers cannot substitute copies for the purchase of books, publishers' reprints or periodicals, nor can they repeatedly copy the same item from term-to-term. Copying cannot be directed by a “higher authority”, and students cannot be charged more than the actual cost of photocopying.

Teachers may use copyrighted material in overhead or opaque projectors for instructional purposes.

Authorized reproduction and use of copyrighted materials in the library:

A library may make a **single** copy or three digital copies of:

- A. An unpublished work which is in its collection;
- B. A published work in order to replace it because it is damaged, deteriorated, lost, or stolen, provided that an unused replacement cannot be obtained at a fair price.
- C. A work that is being considered for acquisition, although use is strictly limited the purpose of making an acquisition decision. Technological protection measures may be circumvented for purposes of copying materials in order to make an acquisition decision.

A library may provide a single copy of copyrighted material to a student or staff member at no more than the actual cost of photocopying. The copy must be limited to one article of a periodical issue or a small part of other material, unless the library finds that the copyrighted work cannot be obtained elsewhere at a fair price. If the item cannot be found at a fair price, the entire work may be copied. In any case, the copy shall contain the notice of copyright and the student or staff member shall be notified that the copy is to be used only for private study, scholarship or research. Any other use may subject the person to liability for copyright infringement.

At the request of a teacher, copies may be made for reserve use. The same limits apply as for single or multiple copies described in “Authorized Reproduction and Use of Copyrighted Material in Print.”

Authorized Reproduction and Use of Copyrighted Music

A teacher may make a single copy of a song, movement, or short section from a printed musical work that is unavailable except in a larger work for purposes of preparing for instruction.

A teacher may make multiple copies for classroom use of an excerpt of not more than 10% of a printed musical work if it is to be used for academic purposes other than performance, provided that the excerpt does not comprise a part of the whole musical work which would constitute a performable unit, such as a complete section, movement, or song. In an emergency, a teacher may make and use replacement copies of printed music for an imminent musical performance when the purchased copies have been lost, destroyed or are otherwise not available.

A teacher may make and retain a single recording of student performances of copyrighted material when it is made for purposes of evaluation or rehearsal.

A teacher may make and retain a single copy of excerpts from recordings of copyrighted musical works for use as aural exercises or examination questions.

A teacher may edit or simplify purchased copies of music provided that the fundamental character of the music is not distorted. Lyrics shall not be altered or added if none exist.

Performance by teachers or students of copyrighted musical works is permitted without the authorization of the copyright owner as part of a teaching activity in a classroom or instructional setting. The purpose shall be instructional rather than for entertainment.

Performances of nondramatic musical works which are copyrighted are permitted without the authorization of the copyright owner, provided that:

- A. The performance is not for a commercial purpose;
- B. None of the performers, promoters or organizers are compensated; and
- C. Admission fees are used for educational or charitable purposes only.

All other musical performances require permission from the copyright owner.

Off-Air Recording of Copyrighted Programs

Television programs, excluding news programs, transmitted by commercial and non-commercial television stations for reception by the general public without charge may be recorded off-air simultaneously with broadcast transmission (including simultaneous cable retransmission) and retained by a school for a period not to exceed the first forty-five (45) consecutive calendar days after date of recording. Upon conclusion of this retention period, all off-air recordings must be erased or destroyed immediately.

Off-air recording may be used once by individual teachers in the course of instructional activities, and repeated once only when reinforcement is necessary within a building, during the first ten (10) consecutive school days, excluding scheduled interruptions, in the forty-five (45) calendar day retention period.

Off-air recordings may be made only at the request of and used by individual teachers, and may not be regularly recorded in anticipation of requests. No broadcast program may be recorded off-air more than once at the request of the same teacher, regardless of the number of times the program may be broadcast.

A limited number of copies may be reproduced from each off-air recording to meet the legitimate needs of teachers. Each additional copy shall be subject to all provisions governing the original recording.

After the first ten (10) consecutive school days, off-air recordings may be used up to the end of the forty-five (45) calendar day retention period only for evaluation purposes, i.e., to determine whether or not to include the broadcast program in the teaching curriculum. Permission must be secured from the publisher before the recording can be used for instructional purposes after the ten (10) day period.

Off-air recordings need not be used in their entirety, but the recorded programs may not be altered from their original content. Off-air recordings may not be physically or electronically combined or merged to constitute teaching anthologies or compilations.

All copies of off-air recordings must include the copyright notice on the broadcast program as recorded.

Authorized Reproduction And Use Of Copyrighted Computer Software

Schools have a valid need for high-quality software at reasonable prices. To assure a fair return to the authors of software programs, the school district shall support the legal and ethical issues involved in copyright laws and any usage agreements that are incorporated into the acquisition of software programs.

To this end, the following guidelines shall be in effect:

- A. All copyright laws and publisher license agreements between the vendor and the district shall be observed;
- B. Staff members shall take reasonable precautions to prevent copying or the use of unauthorized copies on school equipment;
- C. A back-up copy shall be purchased, for use as a replacement when a program is lost or damaged. If the vendor is not able to supply a back-up the district, in accordance with P.L. 96-517, Section 7(b), shall make a back-up program and attest that the program will be used for replacement purposes only;
- D. The principal is authorized to sign a software license agreement on behalf of the school. A copy of this agreement shall be retained by the principal; and
- E. A computer program may be adapted by adding to the content or changing the language. The adapted program may not be distributed.

Fair Use Guidelines for Education Multimedia

- A. Fair use does not include posting a student or teacher's work on the Internet if it includes portions of copyrighted materials. Permission to copy shall be obtained from the original copyright holder(s) before such projects are placed online;
- B. Projects posted online will include a notice that they were prepared under the fair use exemption of the US copyright law and are restricted from further use;
- C. Students may incorporate portions of copyrighted materials in producing educational multimedia projects for a specific course, and may perform, display or retain the projects; and
- D. Educators may perform or display their own multimedia projects to students in support of curriculum-based instructional activities. These projects may be used:
 1. In face-to-face instruction;
 2. In demonstrations and presentations, including conferences;
 3. In assignments to students;
 4. For remote instruction if distribution of the signal is limited;
 5. Over a network that cannot prevent duplication for fifteen days; after fifteen days a copy may be saved on-site only; or
 6. In their personal portfolios.

Educators may use copyrighted materials in a multimedia project for two years, after that permission must be requested and received. The following limitations restrict the portion of any given work that may be used pursuant to fair use in an educational multimedia project:

- A. Motion media: ten percent or three minutes, whichever is less;
- B. Text materials: ten percent or 1,000 words, whichever is less;
- C. Poetry: an entire poem of fewer than 250 words, but no more than three poems from one author or five poems from an anthology. For poems of greater than 250 words, excerpts of up to 250 words may be used, but no more than three excerpts from one poet or five excerpts from an anthology;
- D. Music, lyrics and music video: Up to ten percent, but no more than thirty seconds. No alterations are allowed that change the basic melody or fundamental character of the work;
- E. Illustrations, cartoons and photographs: No more than five images by an artist, and no more than ten percent or fifteen images whichever is less, from a collective work; and
- F. Numerical data sets: Up to ten percent or 2,500 field or cell entries, whichever is less.

Copying Limitations

Circumstances will arise when staff are uncertain whether or not copying is prohibited. In those circumstances, the superintendent or designated copyright compliance officer should be contacted. The following prohibitions have been expressly stated in federal guidelines:

- A. Reproduction of copyrighted material shall not be used to create or substitute for anthologies, compilations or collective works.
- B. Unless expressly permitted by agreement with the publisher and authorized by district action, there shall be no copying from copyrighted consumable materials such as workbooks, exercises, test booklets, answer sheets and the like.
- C. Staff shall not:
 1. Use copies to substitute for the purchase of books, periodicals, music recordings, computer software or other copyrighted material except as permitted by district procedure;
 2. Copy or use the same item from term to term without the copyright owner's permission;
 3. Copy or use more than nine instances of multiple copying of protected material in any one term;
 4. Copy or use more than one short work or two excerpts from works of the same author in any one term; or
 5. Copy or use protected material without including a notice of copyright. The following is a satisfactory notice: NOTICE: THIS MATERIAL MAY BE PROTECTED BY COPYRIGHT LAW.

Staff shall not reproduce or use copyrighted material at the direction of someone in higher authority or copy or use such material in emulation of some other teacher's use of copyrighted material without permission of the copyright owner.