

Board Policy Document

EDUCATIONAL PROGRAMS

Series 600

Policy Title: Copyright Compliance

Code Number: AR603.11

Staff may make copies of copyrighted District materials that fall within the following guidelines. Where there is reason to believe 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.

Under the "fair use" doctrine, unauthorized reproduction of copyrighted materials is permissible for such purposes as criticism, comment, news reporting, teaching, scholarship or research. Under the fair use doctrine, each of the following four standards must be met in order to use the copyrighted document:

- A. Purpose and Character of the Use – The use must be for such purposes as teaching or scholarship.
- B. Nature of the Copyrighted Work – The type of work to be copied.
- C. 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. 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.

First Adoption: March 25, 1997
Revision Adoption: September 24, 2002/June 22, 2009
Legal Reference:

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- E. Authorized Reproduction and Use of Copyrighted Material Reminders
1. Materials on the Internet should be used with caution since they may, and likely are, copyrighted.
 2. Proper attribution (author, title, publisher, place and date of publication) should always be given.
 3. Notice should be taken of any alterations to copyrighted works, and such alterations should only be made for specific instructional objectives.
 4. 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.

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A teacher may make multiple copies not exceeding more than one per pupil, for classroom use or discussion if the copying meets the tests of “brevity, spontaneity and cumulative effect” set by the following guidelines (Each copy must include the notice of copyright present in the original work.):

A. Brevity

1. A complete poem, if less than 250 words, and if printed on not more than two pages, may be copied in its entirety; excerpts from longer poems cannot exceed 250 words;
2. Complete articles, stories or essays of less than 2,500 words may be copied. Excerpts from prose works of not more than 1,000 words or 10 percent of the work—whichever is less—may be copied, but in any event, a minimum of 500 words may be copied;
3. Each numerical limit set forth above may be expanded to permit the completion of an unfinished line of a poem or an unfinished prose paragraph;
4. One chart, graph, diagram, drawing, cartoon or picture per book or periodical issue may be copied;
5. “Special” works cannot be reproduced in full under any circumstances; however, an excerpt of not more than two published pages containing not more than 10 percent of the words in the text of such special work may be reproduced. What constitutes a “Special” work is not clearly defined; however, special works include children's books combining poetry, prose or poetic prose with illustrations and which are less than 2,500 words in their entirety. For a further discussion on what constitutes a “Special” work, see Agreement on Guidelines for classroom coping in not-for-print educational institutions with respect to books and periodicals.

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- B. Spontaneity—Copying should be at the “instance and inspiration” of the individual teacher; and 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.
- 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, essay or two excerpts from the same author may be copied, and no more than three works or excerpts can be copied from a collective work or periodical volume during one class term. Teachers are limited to nine instances of multiple copying for one course during one class term. The numerical limitations set forth above 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.

Notwithstanding any of the foregoing, the copyright law prohibits using copies to create, replace or substitute for anthologies, compilations or collective works. There shall be no copying of or from works intended to be “consumable” in the course of study or of teaching. “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.

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Authorized Reproduction and Use of Copyrighted Materials In the Library

A library may make a single copy or three digital copies (containing the notice of copyright present on the original work) of:

- A. An unpublished work or
- 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 to that decision. Technological protection measures may be circumvented for purposes of copying materials in order to make an acquisition decisions.

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. In the latter circumstance, the entire work may be copied. In any case, the copy shall contain the notice of copyright present in the original work 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 and the library shall not make a copy if it has notice of any other use.

Authorized Reproduction and Use of Copyrighted Music or Dramatic Works

For academic purposes, other than performance, teachers may make a single copy of an entire performable unit (section), movement, aria, etc. from a printed musical work that is (1) confirmed by the copyright proprietor to be out of print or (2) unavailable except in a larger work, for purposes of preparing for instruction.

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A teacher may make multiple copies not exceeding one copy per pupil for classroom use of an excerpt of not more than 10 percent 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 selection, movement, or aria. In an emergency, a teacher may make and use replacement copies of printed music for imminent musical performances when the purchased copies have been lost, destroyed, or are otherwise not available, provided that purchased copies shall be substituted in due course.

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.

Copying cannot be used to create, replace or substitute for anthologies, compilations or collective works; copying of consumable works is prohibited. Copying for the purpose of performance is prohibited, except in the case of an emergency as set forth above, and copying for the purpose of substituting for the purchase of music is prohibited, except as set forth in the first and second paragraphs above. All copies must include the copyright notice appearing on the printed copy.

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.

If the requirements of the foregoing paragraph are not satisfied, performances of non-dramatic musical works which are copyrighted are permitted without the authorization of the copyright owner, provided that:

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- A. The performance is not for a commercial purpose;
- B. None of the performers, promoters, or organizers are compensated; and
- C. There is no direct or indirect admission charge; or (2) Admission fees are used for educational or charitable purposes only; provided that the copyright owner has not objected to the performance.

All other musical performances require permission from the copyright owner.

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 (hereinafter referred to as “broadcast programs”) 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. Certain programming such as that provided on public television may be exempt from this provision; check with the teacher librarian.

Off-air recordings may be used once by individual teachers in the course of relevant instructional activities, and repeated once only when instructional reinforcement is necessary in classrooms and similar places devoted to instruction, during the first ten (10) consecutive school days in the forty-five (45) calendar day retention period. “School days” are school session days—not counting weekends, holidays, vacations, examination periods or other scheduled interruptions.

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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 under these guidelines. 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 teacher 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 or any other non-evaluation purpose 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
Video Rentals or Videos Purchased for Home Use Only**

Videos may only be rented for classroom use from agencies or companies, which allow for such use. Many retail video rental stores have strict license agreements prohibiting use with large, non-home audiences. These restrictions may also apply to the use of videos purchased for home use. Staff is expected to review and honor these agreements.

It is important to understand the difference between “public performance” and “home use.” The copyright owner has exclusive rights to perform the work publicly and display the work publicly. Therefore, care needs to be taken that a “home use only” video does not become a “public performance” at school.

First Adoption: March 25, 1997
Revision Adoption: September 24, 2002/June 22, 2009
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In order for a school to use a video without paying royalties for a public performance, ALL FOUR of these criteria must be met:

- A. The use must take place in a classroom or similar place of instruction.
- B. The use must be part of the regular instructional process and must not be merely for entertainment or reward.
- C. The use must be in the course of face-to-face teaching activities.
- D. The video must be a lawfully made or acquired copy.

The above criteria must also be met in order to broadcast a “home use only” video over the school’s closed circuit video system.

**Authorized Reproduction and Use of
Copyrighted Computer Software and ~~CD-ROM~~ Products**

Schools have a valid need for high-quality software at reasonable prices. To assure a fair return to the authors of software programs, the District shall comply with the copyright laws and any usage agreements that are applicable to the acquisition of software programs.

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

- A. All copyright laws and 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, to avoid the installation of privately purchased software on school equipment and to avoid the use of single copy software or CD-ROM products across a network with multiple users unless such use is permitted by the applicable license agreement;

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- 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 such, the District shall make a back-up program in accordance with the terms of the applicable license agreement or 17 U.S.C. and 117 and attest that the program will be used for replacement purposes only; and
- D. The Principal is authorized to sign a software license agreement on behalf of the school. A copy of said agreement shall be retained by the Principal, and a copy sent to the Director of Technology.

Fair Use Guidelines for Educational Multimedia

Students may incorporate portions of copyrighted materials in producing educational multimedia projects such as videos, slideshows, podcasts and web sites for a specific course, and may perform, display or retain the projects.

Educators may perform and display their own multimedia projects to students in support of curriculum-based instructional activities.

These projects may be used:

- A. In face to face instruction
- B. In demonstrations and presentations; including conferences
- C. In assignments to students
- D. For remote instruction to students enrolled in courses as long as the distribution signal is limited
- E. Over a network that cannot prevent duplication of copyrighted material for fifteen days. After fifteen days a copy may be saved onsite only; or
- F. In their personal portfolios

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Educators and students must acquire copyright Even for educational uses, educators and students must acquire permission for all copyrighted works before replicating beyond the limitations presented in these guidelines.

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. The opening screen of such presentations shall include notice that permission was granted and materials are restricted from further use.

The following limitations restrict the portion of any given work that may be used pursuant of 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 that change the basic melody or fundamental character of the work;
- E. Illustrations, cartoons and photographs: No more that five images by an artist, and no more than ten percent or fifteen images whichever is less from a collective work;
- F. Numerical data sets: Up to ten percent or 2,500 field or cell entries, whichever is less;

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Copying Limitations

Circumstances will arise when staff is 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 guidelines agreed to by representatives of educators and authors/publishers:

- 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 for one course 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 the notice of copyright present in the original work and the following is a satisfactory notice: NOTICE: THIS MATERIAL MAY BE PROTECTED BY COPYRIGHT LAW (Title 17, U.S. Code).

See Board Policies 603.10 and 603.11.

First Adoption: March 25, 1997
Revision Adoption: September 24, 2002/June 22, 2009
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