

PersonnelAdministrative Procedure - Copyright Compliance

These guidelines help staff members determine if they may use non-original work freely or whether permission is needed to use or copy it. Whenever a staff member is uncertain, has questions, or needs permission from a copyright-owner to use or copy a work, he or she should contact the Superintendent or designated copyright compliance officer.

1. Is the work copyright protected? A “no” means you may use the work freely; a “yes” or uncertain answer means you should proceed with the second query.
  - a. No, if it is in the public domain.
  - b. No, if it is a U.S. Government publication.
  - c. No, if it is an idea or method described in copyrighted work.
  - d. The presence of a copyright notice is not determinative.
  - e. Yes, almost all other works.
  
2. Do you want to exercise one of the copyright owner’s exclusive rights? A “yes” or uncertain answer means you should proceed with the third query.
  - a. Yes, if you plan to copy the work.
  - b. Yes, if you plan to use the work as the basis for a new work.
  - c. Yes, if you plan to electronically distribute or publish copies.
  - d. Yes, if you plan to perform music, prose, poetry, a drama, or play a video or audio tape or a CD-ROM.
  - e. Yes, if the plan is to publicly display the work.
  
3. Does your planned use of the work require the copyright owner’s permission? A “no” means you may use the work, provided that any copies contain the copyright notice as it appears in the original work; a “yes” or uncertain answer means you should contact the Superintendent or designated copyright compliance officer.
  - a. No, if your planned use of printed work is within the “fair use” exception (17 U.S.C. § 107).

Staff members should follow the Guidelines for Classroom Copying of Books and Periodicals (Appendix A). The application of these Guidelines to software is problematic; thus, copying software in lieu of purchasing it is prohibited, unless authorized by these procedures or by the Superintendent or designated copyright compliance officer.
  - b. No, if your planned use of the work is within the “library’s special rules” exception (17 U.S.C. § 108).
    - A library may make a single copy (containing the notice of copyright Present on the original work) for the purpose of archiving lost, stolen, Damaged, or deteriorating works.
  
    - A library may make a single copy (containing the notice of copyright present of the original work) for 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.

- c. No, if your planned use of the work is within the “educational performances and displays” exception (17 U.S.C. § 110).

Performances by teachers or students are permitted as part of a teaching activity in a classroom or instructional setting. All other performances require permission from the copyright owner.

- d. No, if you plan to use it in an overhead or opaque projector for instructional purposes.
- e. No, if you plan to copy and use music for academic purposes, other than performance.
- f. Yes, notwithstanding the above, if you plan to create anthologies, compilations, or collective works.
- g. Yes, notwithstanding the above, if copies will be “consumed” during the course. “Consumable” works include: workbooks, exercises, standardized tests, test booklets, and answer sheets.
- h. Yes, notwithstanding the above, if you plan to substitute copies for the purchase of the work; likewise, if you yearly copy the same item.
- i. You must receive permission from the Superintendent or designated copyright compliance officer before showing the off-air recording of television programs, video rentals, or videos purchased for home use. You must follow any applicable license agreements.
- j. You must receive permission from the Superintendent or designated copyright compliance officer before using any non-District-owned software and/or CD-ROM products in District-owned equipment. No one may install or download any program on District-owned equipment without the Superintendent or designee’s permission.
- k. You must follow licensing agreements applicable to District-owned software and CD-ROM products.
- Licensing agreements with the manufacturer and vendor shall be followed.
  - 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 the applicable license agreement permits.

- 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 licensing agreement or 17 U.S.C. § 117.

### **Appendix A**

#### **Guidelines for Classroom Copying of Books and Periodicals**

The following guidelines state the minimum standards of educational fair use under Section 107 of The Copyright Act.

##### **I. Single Copying for Teachers**

A single copy may be made of any of the following or any part thereof by or for any faculty or staff member at his or her individual request:

- A. A chapter from a book;
- B. An article from a periodical or newspaper;
- C. A short story, short essay or short poem, whether or not from a collective work;
- D. A chart, graph, diagram, drawing, cartoon or picture from a book, periodical, or newspaper.

##### **II. Multiple Copies for Classroom Use:**

Multiple copies (not to exceed in any event more than one copy per student in a course) may be made by or for the faculty giving the course for classroom use or discussion, provided that:

- A. The copying meets the brevity and spontaneity tests as defined below; and,
- B. Meets the cumulative effect test as defined below; and,
- C. Each copy includes a notice of copyright.

#### **Definitions**

- A. Brevity
  - i) Poetry: (a) A complete poem if less than 250 words and if printed on not more than two pages or, (b) from a longer poem, an excerpt of not more than 250 words.
  - ii) Prose: (a) Either a complete article, story or essay of less than 2,500 words, or (b) an excerpt from any prose work of not more than 1,000 words or 10% of the work, whichever is less, but in any event a minimum of 500 words.

*Each of the numerical limits stated in “i” and “ii” above may be expended to permit the completion of an unfinished line of a poem or of an unfinished prose paragraph.*

- iii) Illustration: One chart, graph, diagram, drawing, cartoon or picture per book or periodical issue
  - iv) “Special” works: Certain works in poetry, prose or in “poetic prose” which often combine language with illustrations and which are intended sometimes may not be reproduced in their entirety; however, an excerpt comprising not more than two of the published pages of such special work and contained not more than 10% of the words found in the text thereof, may be reproduced.
- B. Spontaneity
- i) The copying is at the instance and inspiration of the individual teacher, and
  - ii) 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
- i) The copying of the material is for only one course in the school in which the copies are made.
  - ii) 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.

*The limitations stated in “ii” and “iii” above shall not apply to current news periodicals and newspapers and current news sections of other periodicals.*

### III. Prohibitions on “Single Copying for Teachers” and “Multiple Copies for Classroom Use” (I and II above)

Notwithstanding any of the above, the following shall be prohibited:

- A. Copying may not be used to create or to replace or substitute for anthologies, compilations or collective works. A prohibited replacement or substitution occurs regardless of whether copies of various works or excerpts therefrom are accumulated or are reproduced and used separately.
- B. There shall be no copying of or from works intended to be “consumable” in the course of study or of teaching. These include workbooks, exercises, standardized tests and test booklets and answer sheets and like consumable material.

- C. Copying shall not:
1. Substitute for the purchase of books, publisher's reprints or periodicals;
  2. Be directed by higher authority; or
  3. Be repeated with respect to the same time by the same teacher from term to term.
- D. No charge may be made to the student beyond the actual cost of the photocopying.