

10.12 COPYRIGHT LAW

Board employees shall abide by the copying procedures set forth below and obey the requirements of the law. Under no circumstances may employees of the Board violate copyright requirements in order to perform their duties. The Board is not responsible for any violations of the Copyright Act by its employees.

Public Law 94-533, the Copyright Act, affects all employees, because it sets guidelines regarding the duplication and use of all copyrighted materials -- print, nonprint, music, pictorial, dramatic works, motion pictures, computer software, and others. The Superintendent is responsible for disseminating the guidelines set forth below for duplication and use of copyrighted materials to all employees.

Any employee who is uncertain as to whether the reproducing or use of copyrighted materials complies with Board policy or is permissible under law shall contact the Superintendent or his/her designee.

Guidelines for Use of Copyrighted Materials

Fair Use

A. The "fair use" of copyrighted work for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship or research is not an infringement of copyright law. In determining whether the use made of a work in any particular case is a fair use, the factors to be considered shall include:

1. The purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes;
2. The nature of the copyrighted work;
3. The amount and substantiality of the portion used in relation to the copyrighted work as a whole; and,
4. The effect of the use upon the potential market for or value of the copyrighted work.

These factors are discussed and defined in greater detail below.

Single Copying for use in Teaching

A. A single copy may be made of any of the following by or for a teacher for his/her scholarly research or use in teaching or preparation to teach a class.

1. A chapter from a book;
2. An article from a periodical or newspaper;

3. A short story, short essay or short poem, whether or not from a collective work; or
4. A chart, graph, diagram, drawing, cartoon or picture from a book, periodical or newspaper.

Multiple Copies for Classroom Use

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

1. The copying meets the tests for brevity and spontaneity as defined below;
2. It meets the cumulative effect test as defined below; and
3. Each copy includes a notice of copyright.
4. a. Brevity: use of a copyrighted work must be limited in order to meet the brevity test of fair use. The following uses meet this brevity test:
 - (1) Poetry
 - (a) Copying of a complete poem if less than 250 words and if printed on not more than two pages; or
 - (b) If from a longer poem, an excerpt of not more than 250 words.
 - (2) Prose
 - (a) Copying of 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 "poetry" and "prose" above may be expanded to permit the completion of an unfinished line of a poem or of an unfinished prose paragraph.

 - (3) Illustrations: One chart, graph, diagram, drawing, cartoon or picture per book or per periodical issue.
 - (4) Special Works: "Special works" are defined as certain works in poetry, prose or in a "poetic prose" which often combine language

with illustrations and which are intended sometimes for children, and at other times for a more general audience, and which fall short of 2,500 words in their entirety.

Paragraph two above (Prose) notwithstanding, such "special works" may not be reproduced in their entirety; however, an excerpt comprising not more than two of the published pages of such special work, and containing not more than 10% of the words found in the text thereof, may be reproduced.

- b. Spontaneity: Spontaneity, for purposes of fair use, is met when the copying is 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 from the person or entity holding the copyright to the work.
- c. Cumulative effect: The fair use test can only be met if the cumulative effect of unauthorized reproduction by various individuals does not diminish the copyright. Thus, the copying of the material can only be for one course in the school in which copies are made.

Additionally, not more than one short poem, article, story or 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 the last two paragraphs above shall not apply to current news periodicals and newspapers and current news sections of other periodicals.

Permissible Educational Uses of Music

- A. Emergency copying may be done to replace purchased copies which for any reason are not available for an imminent performance, provided a purchased replacement copy, if available, is substituted for the copy in due course.
- B. For academic purposes other than performance, single or multiple copies of excerpts of works may be made, provided that the excerpts do not comprise a part of the whole which would constitute a performable unit such as a section movement, but in no case more than 10% of the whole work. The number of copies shall not exceed one copy per student.
- C. Printed copies which have been purchased may be edited or simplified, provided that the fundamental character of the work is not distorted or that lyrics, if any, are not altered or added.
- D. A single copy of recordings of performances by students may be retained by the educational institution or individual teacher.

E. A single copy of a sound recording of copyrighted music may be made from sound recordings owned by an educational institution or an individual teacher for the purpose of constructing aural exercises or examinations and may be retained by the educational institution or individual teacher. (This pertains only to the copyright of the music itself and not to any copyright which may exist in the sound recording.)

Authorized Reproduction and Use of Copyrighted Audio-Visual Material

Board employees may copy certain instructional television programs telecast by the local Public Broadcasting Systems educational television station. Before recording the telecast, the following conditions shall be satisfied.

A. The monthly list of programs not licensed for recording shall be consulted. Any program listed shall not be recorded.

B. Recordings may be used in classroom or instructional settings.

C. Recordings shall be used only in the facilities of the District and shall not be loaned or made available outside of those facilities.

D. Permissible recordings of evening programs shall be retained for no more than seven days following the telecast unless an extension is received in writing in advance. Daytime telecasts may be recorded and retained permanently unless otherwise notified.

Authorized Reproduction and Use of Copyrighted Materials in the Library

A. A library may make a single copy of 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.

B. A library may provide a single copy of copyrighted material at cost.

1. 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 circumstances, the entire work may be copied.

2. The copy shall contain the notice of copyright and the person obtaining the copy shall be notified that the copy is to be used only for private study, scholarship or research, and that any other use could result in the person being liable for copyright infringement.

C. At the request of the teacher, copies may be made for reserve use. The same limits apply as for single or multiple copies designated below.

Copying Limitations

A. Federal laws and regulations expressly provide the following prohibitions on copying copyrighted material:

1. Reproduction of copyrighted material shall not be used to create or substitute for anthologies, compilations or collective works.

2. Unless expressly permitted by agreement with the publisher and authorized by Board action, there shall be no copying from copyrighted consumable materials such as workbooks, exercises, test booklets, answer sheets or similar materials.

3. Board employees shall not:

a. Use copies to substitute for the purchase of books, periodicals, music recordings, motion pictures, or other copyrighted material, except as permitted by law;

b. Copy or use the same items from term to term without the copyright owner's permission;

c. Copy or use more than nine instances of multiple copying of protected material in any one term;

d. Copy or use more than one short work or two excerpts from works of the same author in any one term; or

e. Copy or use protected materials without including a notice of copyright. The following shall be a satisfactory notice:

NOTICE: THIS MATERIAL MAY BE PROTECTED BY COPYRIGHT LAW

Computer Software Copyright

The Board recognizes that computer software piracy is a major problem for the industry and that violations of copyright laws contribute to higher costs and lessen incentives for publishers to develop effective educational software. Therefore, in an effort to discourage software piracy and to prevent such illegal activity, the District will take the following steps.

A. The ethical and practical implications of software copyright violations will be taught to all employees and students using District computer facilities and software.

B. Employees and students will be informed that they are expected to adhere to section 117 of the 1976 Copyright Act and all subsequent amendments governing the use of software.

C. Wherever possible, efforts will be made to secure software from being duplicated from floppy disks, hard drives or networked systems.

- D. Illegal copies of copyrighted software shall not be made or used on District equipment.
- E. District administrators shall be designated as the only individuals who may sign license agreements for educational software used on District computers.
- F. Documentation of licenses for software used on District computers will be located at the site where the software is being used.

Unsupervised Copy Equipment

- A. The following notice, in large type, shall be affixed to all District copying equipment (Xerox, Thermofax, audiotape recorder, videotape recorder and copy camera).

NOTICE: THE COPYRIGHT LAW OF THE UNITED STATES GOVERNS THE MAKING OF COPIES OF COPYRIGHTED MATERIAL. THE PERSON USING THIS EQUIPMENT IS LIABLE FOR ANY INFRINGEMENT.

Library Copying for Students or Staff

- A. The following notice, in large type, shall be posted prominently where the copies are made available to students or staff:

NOTICE: THE COPYRIGHT LAW OF THE UNITED STATES GOVERNS THE MAKING OF COPIES OF COPYRIGHTED MATERIAL.

- B. The following notice, in large type, shall be posted prominently where print copies are made available to students and/or staff:

WARNING CONCERNING COPYRIGHT RESTRICTIONS

THE COPYRIGHT LAW OF THE UNITED STATES (TITLE 17, UNITED STATES CODE) GOVERNS THE MAKING OF PHOTOCOPIES OR OTHER REPRODUCTIONS OF COPYRIGHTED MATERIAL.

UNDER CERTAIN CONDITIONS SPECIFIED IN THE LAW, LIBRARIES AND ARCHIVES ARE AUTHORIZED TO FURNISH A PHOTOCOPY OR OTHER REPRODUCTION. ONE OF THESE SPECIFIED CONDITIONS IS THAT THE PHOTOCOPY OR REPRODUCTION IS NOT TO BE "USED FOR ANY PURPOSE OTHER THAN PRIVATE STUDY, SCHOLARSHIP OR RESEARCH." IF A USER MAKES A REQUEST FOR, OR LATER USES, A PHOTOCOPY OR REPRODUCTION FOR PURPOSES IN EXCESS OF "FAIR USE," THAT USER MAY BE LIABLE FOR COPYRIGHT INFRINGEMENT.

THIS INSTITUTION RESERVES THE RIGHT TO REFUSE TO ACCEPT A COPYING ORDER IF, IN ITS JUDGMENT, FULFILLMENT OF THE ORDER WOULD INVOLVE VIOLATION OF COPYRIGHT LAW.

