

FAIR USE GUIDELINES FOR BOOKS AND PERIODICALS

The fair use of a copyrighted work, including such use by reproduction in copies for purposes such as teaching (including multiple copies for classroom use), scholarship, or research, is not an infringement of copyright. 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;
2. the nature of the copyrighted work,
3. the amount and substantiality of the portion used in relation to the copyrighted work as whole; and
4. the effect of the use upon the potential market for or value of the copyrighted work.

17 U.S.C. § 107.

Where an employee of the School District acting within the scope of his or her employment believed and had reasonable grounds for believing that his or her use of the copyrighted work was a fair use, he or she will not be liable for statutory damages under the copyright laws. 17 U.S.C. § 504. Compliance with the following guidelines should support a School District employee's belief that the particular use of copyrighted materials is a fair use.

I. Single Copies for Teachers

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

- 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; or
- D. a chart, graph, diagram, drawing, cartoon or picture from a book, periodical, or newspaper.

II. Multiple Copies for Classroom Use

Multiple copies, not exceeding one copy per pupil in the course, may be made by or for a teacher for classroom use or discussion, provided that:

- A. Each copy includes a copyright notice;
- B. the copies are brief;
 - i. Poetry:
 - a. a complete poem if less than 250 words and printed on two pages or less;
 - b. an excerpt of 250 words or less from a longer poem.
 - ii. Prose:
 - a. a complete article, story or essay of less than 2,500 words;
 - b. an excerpt from any prose work, with a minimum of 500 words and up to 1000 words or 10% of the work, whichever is less.
 - iii. Illustrations:

One chart, graph, diagram, drawing, cartoon or picture per book or periodical per issue.

iv. "Special" Works (i.e. picture books):

Certain works in poetry, prose or poetic prose which often combine language with illustration and which are often, but not always, intended for children fall short of 2,500 words in their entirety. Paragraph "ii" above notwithstanding, these special works may not be reproduced in their entirety.

An excerpt of not more than two pages of such works and containing not more than 10% of the words of the work may be reproduced.

C. The copying is "spontaneous":

- 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 request for permission (in other words, a teacher should not plan to copy excerpts for next class term).

D. The cumulative effect of the copying must not exceed fair use:

- i. the copying 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;
and,
- iii. there shall not be more than nine instances of such multiple copying or one course during one class term.

III. Additional Restrictions

- A. Copying shall not be used to create, replace or substitute for anthologies, compilations or collective works.
- B. There shall be no copying of or from works intended to be "consumable" such as workbooks, exercises, standardized tests and the like.
- C. Copying shall not:
 - a. substitute for the purchase of books, publisher's reprints, or periodicals;
 - b. be directed by higher authority; or,
 - c. be repeated with respect to the same item by the same teacher from year to year.
- D. Students shall not be charged beyond the actual cost of copying.

FAIR USE GUIDELINES FOR AUDIO/VISUAL MATERIALS

1. A broadcast program may be recorded off-air simultaneously with broadcast transmission (including simultaneous cable transmission) and retained by a non profit educational institution for a period not to exceed the first 45 calendar days after date of recording. Upon conclusion of such retention periods all off-air records must be erased or destroyed immediately.
2. Off-air recordings may be used once by individual teachers in the course of relevant teaching activities, and repeated once only when instruction reinforcement is necessary, in classrooms and similar places devoted to instruction within a single building, cluster, or campus, as well as in the homes of students receiving formalized home instruction, during the first ten (10) consecutive school days in the 45 calendar day retention period. "School days" are school session days - not counting weekends, holidays, vacations, examination periods, or other scheduled interruptions-within the 45 calendar day retention period.
3. 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.
4. A limited number of copies may be reproduced from each off-air recording to meet the legitimate needs of teachers under these guidelines. Each such additional copy shall be subject to all provisions governing the original recording.
5. After the first ten (10) consecutive school days, off-air recordings may be used up to the end of the 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, and may not be used in the recording institution for student exhibition or any other non-evaluation purpose without authorization.
6. 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.
7. All copies of off-air recordings must include the copyright notice on the broadcast program as recorded.
8. Educational institutions are expected to establish appropriate control procedures to maintain the integrity of these guidelines.

Agreement formulated January, 1982, by commission of "fair use" of audio/visual materials.

COMPUTER SOFTWARE

Public Law 96-517. Section 7(b) which amends Section 117 of Title 17 of the United States Code.

"...it is not an infringement for the owner of a copy of a computer program to make or authorize the making of another copy or adaptation of that computer program provided;

- a. That such a new copy or adaptation is created is an essential step in the utilization of the computer program in conjunction with a machine and that It IS used In no other manner, or
- b. That such a new copy and adaptation is for archival purposes only and that all archival copies are destroyed In the event that continued possession of the computer program should cease to be rightful."