

COPYRIGHT *GUIDELINES*

A MANUAL FOR LANE EDUCATION SERVICE DISTRICT



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NOTICE

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.

Criminal copyright infringement is investigated by the FBI and may constitute a felony with a maximum penalty of up to five years in prison and/or a \$250,000 fine.

Foreword

Copyright is the exclusive right that protects an author, composer, producer, or programmer from having work reproduced or exhibited publicly without express permission. Copyright exists for the purpose of encouraging the development of new and original work by assuring the creators of such work that they will be fairly compensated and recognized for their creations.

This document highlights some of the key copyright laws as they affect educational staff. Of particular value to the users of this document are the “fair use” doctrine and the sections about what may and may not be copied and used legally. “**Fair Use**” is the privilege of using copyrighted materials in a reasonable manner without first getting permission from the author or producer.

Two questions one should ask oneself are:

- 1. Is this an unethical use?**
- 2. Could this use harm the author’s market?**

The Berne Convention (1988) eliminated the need for a copyright notice in order for the item to be copyrighted. It may now be copyrighted even if there is no notice.

Of particular assistance in this project was Dr. Rosemary Talab, Professor, Kansas State University. Dr. Talab is one of education’s foremost banner carriers in the copyright arena.

POLICY

Code: EGAAA
Orig. Code: 708
Adopted: 4/26/94

Lane Education Service District

REPRODUCTION OF ALL COPYRIGHTED MATERIALS

The Board recognizes that the unlawful copying of copyrighted materials contributes to higher costs for materials, lessens the incentives for development of qualified educational materials, fosters an attitude of disrespect for law which is in conflict with the educational goals of the district and puts the ESD at risk of litigation.

The Board directs that district employees adhere to the provisions of Public Law 94-553 and subsequent federal legislation and guidelines related to the duplication and/or use of copyrighted materials, only permitting copying specifically allowed by copyright law, fair use guidelines, license agreements or proprietor's permission.

Appropriate notice will be posted on or near all equipment capable of making copies.

The Board further directs that:

1. Employees shall not make unlawful copies of copyrighted materials on district owned equipment;
2. Employees shall not use unlawful copies of copyrighted materials with or on district-owned equipment, within district-owned facilities, or at district-sponsored functions;
3. Employees shall not direct other employees under their supervision to make or use unlawful copies of copyrighted materials;
4. Employees who unlawfully copy and use copyrighted materials or direct others to do so are not acting within the course and scope of their employment and will be individually liable for any violation of state or federal laws;
5. Employees who willfully violate this policy will be disciplined.

The Board directs that all staff members be provided opportunities to become and remain knowledgeable about copyright law and guidelines as related to job responsibilities.

In order to implement this policy, the Board directs the superintendent to appoint a staff member or members to serve as copyright officers. It shall be the responsibility of the copyright officers to coordinate the development of administrative regulations detailing what copying can and cannot be done by district employees, retention of appropriate copyright records, training opportunities and a collection of reference materials related to copyright.

END OF
POLICY _____

Legal References:

ORS 334.125 (6)

Copyrights, Title 17, as amended, United States Code

Cross Reference:

Policy GCQBA - Copyrights and Patents

ADMINISTRATIVE RULE

Lane Education Service District

USE OF COPYRIGHTED MATERIALS

The Director of Instructional Services and the Supervisor of Media Services are appointed as District Copyright Officers.

The Copyright Officers shall annually review and update the District Copyright guidelines, arrange for staff to have familiarity with and implement District Copyright Policy and Guidelines and to act as a resource to staff members regarding copyright laws, regulations, District policies and District Copyright Guidelines.

Software License Agreement – OTIS

Policy concerning the use of software licensed to OTIS on home computers: The license agreement does allow for individuals to utilize the OTIS license under the following restrictions:

1. The software can only be used by an OTIS employee.
2. The software cannot be used at the same time that it is being used in the office. This restriction applies to software that is licensed for multiple users to have access to the same copy of the software (i.e., Microsoft Office, WordPerfect, etc.)
3. All software must be removed from your personal machine and returned to OTIS upon your termination of employment or at the request of management.

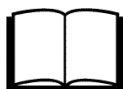


Summary of Laws

Copyright laws are complex and place limits on reproduction of materials by teachers for class use. Though there continues to be controversy regarding interpretation of the copyright laws, this policy represents a sincere effort to operate legally. In general, the following rules apply.



SINGLE COPIES District staff may make a single copy of a page or portion of a page without infringing upon the copyright law of a published item if the source is properly identified.



PORTIONS OF BOOKS Portions of printed materials cannot be copied or reproduced in quantity for distribution to avoid the necessity for students and teachers to purchase the original work.



MUSIC Copyright laws on music are stringent and no such material should ever be reproduced without referring to the Copyright Law.



VIDEO RECORDINGS Use of legally obtained prerecorded television, rented, or non-broadcast programs in classroom instruction is usually permissible. However, unless a license is acquired from the copyright owner, these recordings cannot be used in any non-instructional setting. Beyond the guidelines that allow 45 days for evaluation, copying of prerecorded television programs and copying and retaining non-broadcasted video recordings without proper license agreements is illegal.



COMPUTER SOFTWARE An archival (backup) copy of a copyrighted program is legal unless the program has been licensed for use, rather than sold. The license agreement may specifically prohibit the creation of an archival/backup copy. Case law indicates that these restrictions which enlarge a copyright owner's rights in disregard of copyright law are not binding.¹ However, this duplicate must not be used as a second copy or loaned to others for use. A single copyrighted program may not be used to concurrently operate more than one computer unless the producer has given written permission. This provision applies to both multiple loading and networking. Network versions of software carry different conditions and restrictions. The printed documentation and instructional materials accompanying a program are covered by the same laws protecting all printed material.



REQUIRED SIGNS FOR COPYING MACHINES All copy machines should carry a notice warning users of potential copyright infringement. These notices are required under Section 108 of the copyright law.

These guidelines will, from time to time, be revised. However, as in many other areas of the profession, copyright law interpretation is continually changing. Staff must comply with any court decisions or changes in the law that pertain to use of copyrighted materials in the educational setting.

¹ Talab, R.S. Commonsense Copyright: A Guide for Educators and Librarians. McFarland, 1999. p. 58.

Guidelines for Copyright Procedures

Copyright is the exclusive right that protects an author, composer or programmer from having his or her work published, recorded, exhibited, translated, or reproduced by way of copies and other versions, except by permission. The purpose of copyright is to encourage the development of new and original works, and to stimulate wide distribution by assuring that the creators will be fairly compensated for their contributions to society.

EXCERPT FROM PUBLIC LAW 94-443 GENERAL REVISION OF COPYRIGHT

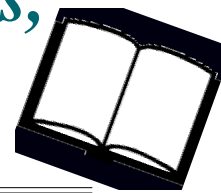
“107. ...the fair use of a copyrighted work, including such use by reproduction in copies of phonorecords or by any other means specified by that section, for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research, is not 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, including whether such use is of a commercial nature or is for non-profit 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.’

The law offers specific guidance for some copying of some media for some purposes. In other areas the law is not clear and these will be noted and caution will be urged in not exceeding a reasonable “*fair use*” application. Strict prohibitions are stated in some guidelines, and precaution should be taken to ensure observance.

Because the “*fair use*” provision of the law is general, it is not subject to either precise definition or automatic application. Within the general parameters of the “*fair use*” section, the guidelines prepared by the committees appointed by Congress to interpret the law have direct implications for classroom teachers. The guidelines with some commentary and examples of “*fair use*” applications by type of media will be presented to assist educators in deciding whether a copy may lawfully be made.

Guidelines for Copying of Books, Periodicals and Other Copyrighted Printed Matter



The purpose of the following guidelines, adopted by the Kastenmeier Committee, is to state the minimum but not the maximum standards of educational “fair use” under Section 107 of H.R. 2223. These guidelines were formulated from recommendations made by a committee of authors, publishers and library representatives appointed by Congressman Kastenmeier to determine the application of “fair use” in the printed area. Fair use depends on how it is used in various prints, audiovisual, and other technologies.

AGREEMENT ON GUIDELINES FOR CLASSROOM COPYING IN NOT-FOR-PROFIT EDUCATIONAL INSTITUTIONS — WITH RESPECT TO BOOKS AND PERIODICALS.

GUIDELINES

II. SINGLE COPYING FOR TEACHERS

A single copy may be made of any of the following by or for a teacher at his or her individual request for his or her 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; and
- D. A chart, graph, diagram, drawing, cartoon or picture from a book, periodical or newspaper.

II. MULTIPLE COPIES FOR CLASSROOM USE

BOOKS AND PERIODICALS

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

- A. The copying meets the tests of brevity and spontaneity as defined below:
- B. Meets the cumulative effect test as defined below;
- C. Each copy includes a notice of copyright: “This material may be protected by copyright law (Title 17, U.S. Code)”.

DEFINITIONS:

A. Brevity:

1. Poetry:

- a. A complete if less than 250 words and if printed on less than two pages, or
- b. From a longer poem, an excerpt of not more than 250 words.

2. 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 of 10% of the work, whichever is less.

3. Illustration: one chart, graph, diagram, drawing, cartoon or picture per book or per periodical issue.

4. "Special" works: Certain works in poetry, prose or in "poetic prose" which often combine language with illustrations and which are intended sometimes for children and at other times for a more general audience fall short of 2,500 words in their entirety. Paragraph "2" in this section 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:

1. The copying is at the instance and inspiration of the individual teacher; and
2. 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:

1. The copying of the material is for only one course in the school in which the copies are made.
2. No 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.
3. There shall not be more than nine instances of such multiple copying for one course during one class term. (The limitations stated in "2" and "3" in this section shall not apply to current news periodicals and newspapers and current news sections of other periodicals.)

The copyright law and guidelines are interpreted below as they apply to various teaching/learning situations. These statements apply to both single and multiple copying situations.

A TEACHER MAY:

- Ⓒ create a series of slides from multiple sources, such as magazines, books, encyclopedias, etc., as long as a teacher does not exceed 10% or the photographs in any one source and unless source specifically prohibits any photographic reproduction.
- Ⓒ create a single overhead transparency from a single page of a consumable workbook.
- Ⓒ create multiple overhead transparencies from a variety of sources, not exceeding 10% of the total content of any one source, unless this type of reproduction is specifically prohibited.
- Ⓒ project a film or videotape through a film chain on closed circuit television WITHIN THE BUILDING.
- Ⓒ tape the audio and/or video portions of a TV news broadcast.
- Ⓒ excerpt sections of a 16mm film to be included in a locally produced videotape, not to be shown over cable TV, not to exceed 10% of the whole, and not excerpting the essence of the work.
- Ⓒ off-air videotape television programs CLEARED FOR COPYRIGHT USAGE (See videotape section, "Using Copyrighted Videotapes.").
- Ⓒ duplicate visual or audio materials of a non-dramatic literary work in order to provide materials for the blind or deaf. In addition, these and other copyrighted materials may be legally transmitted to blind or deaf persons via cable systems.
- Ⓒ display a copy of a copyrighted work on the opaque projector.
- Ⓒ make a cassette tape copy of one section from a sound recording for use one time as background.

A TEACHER MAY NOT: (without express written consent of publisher)

- ⓧ copy without including copyright notice.
- ⓧ copy to create, or to substitute for, anthologies, compilations, or collective works.
- ⓧ copy more than three authors from a collective work.
- ⓧ copy from works intended to be "consumable," such as workbooks, exercises, standardized tests and test booklets and answer sheets, etc.
- ⓧ copy in order to avoid purchase of books, reprints, or periodicals.
- ⓧ be directed by higher authority to make illegal copies.
- ⓧ repeat from term to term the same item, i.e., periodical article.
- ⓧ charge a student beyond the actual cost of the photocopying.
- ⓧ have more than nine instances of multiple copying in one class term.
- ⓧ extend the life of a worn-out ditto master by thermal or xerographic process.

- ⊗ duplicate a copyrighted film, videotape, phonograph record, audio tape, etc., for any commercial or money-making purpose, such as PTO carnivals, class fund-raisers or shows, for which an admission fee is charged.
- ⊗ make archival or back-up copies of copyrighted films, videotapes, phonograph records, filmstrips, or any other audiovisual medium except computer software.
- ⊗ automatically copy an out-of-print item, because there may still be a copyright owner.
- ⊗ read a story from a textbook onto a cassette tape for reading motivation. (Exception is made for a sight-impaired student, however.)
- ⊗ use outside the school copies of videotapes, phonograph records, audio tapes, slide sets, etc., made from copyrighted originals.
- ⊗ duplicate a copyrighted work for the purpose of avoiding the purchase of an additional original copy of the work.
- ⊗ retain a copy indefinitely. If the copy is intended for long-term use, the copyright owner should be contacted for permission.
- ⊗ photograph or scan digitally each illustration in a book and/or make an audio recording of the entire text of such a book.

Guidelines for Off-Air Recording of Broadcast Programming for Educational Purposes*



In March of 1979, Congressman Robert Kastenmeier, Chairman of the House Subcommittee on Courts, Civil Liberties and the Administration of Justice, appointed a Negotiating Committee consisting of representatives of education organizations, copyright proprietors and creative guilds and unions.

The following guidelines reflect the Negotiating Committee's consensus as to the application of "fair use" to the recording, retention and use of television broadcast programs for educational purposes. They specify periods of retention and use of such off-air records in classrooms and similar places devoted to instruction and for homebound instruction. The purpose of establishing these guidelines is to provide standards for both owners and users of copyrighted television programs. Not all producers accepted these guidelines. You should check to determine which producers have accepted these statements.

1. The guidelines were developed to apply only to off-air recordings (not cablecasted only material) by non-profit educational institutions.
2. A broadcast program may be recorded off-air simultaneously with broadcast transmission (including simultaneous cable retransmission) and retained by a non-profit educational institution for a period (NOT TO EXCEED THE FIRST FORTY-FIVE [45] CONSECUTIVE CALENDAR DAYS) after date of recording. Upon conclusion of such retention period, all off-air recordings must be erased or destroyed immediately. "Broadcast programs" are television programs transmitted by television stations for reception by the general public without charge. The 1984 ratification of the Brussels Satellite convention provided Congress with the opportunity to pass legislation affirming the right of private viewers — that is, HOMEVIEWERS ONLY — to receive satellite signals without fear of violation of U.S. law, so long as no further distribution of the received signals takes place.
3. Off-air recordings may be used once by individual teachers in the course of relevant teaching activities, and *repeated once only* when instructional reinforcement is necessary, in classrooms and similar places devoted to instruction. Within a single building, as well as in the homes of students receiving formalized home instruction, during the first ten (10) consecutive school days up to the end of 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 — within the forty-five (45) calendar day retention period.
4. 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.

*Material from the former Television Licensing Center, Wilmette, IL

5. 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.
6. After the first ten (10) consecutive school days, off-air recording 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, and may not be used in the recording institution for student exhibition or any other non-evaluation without authorization.
7. 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.
8. All copies of off-air recordings must include the copyright notice on the broadcast program as recorded.
9. Educational institutions are expected to establish appropriate control procedures to maintain the integrity of these guidelines.

As a result of a March 10, 1983, Federal Court decision, extreme caution is urged in off-air taping of copyrighted materials. The United States District Court of Western New York ruled that *“any temporary videotaping, and playback in classrooms of copyrighted materials readily available by rental, lease or license duplicating agreement is infringement and is not fair use!”*

Although the defendants requested the court to permit temporary videotaping and playback for ten (10) days under the guidelines, the court ruled that since licensing agreements were “clearly available” the guidelines do not apply. Educators should note that a classroom showing of a videotape constitutes a “public performance” and that each performance in a classroom from illegal copies is a separate instance of infringement of the law.

Guidelines for Use of Prerecorded Tapes Rented from Video Outlets



This is both a copyright and a licensing issue. A number of videotape supply companies and the Motion Picture Association of America are beginning to rigorously enforce these regulations. It is important that district personnel not only be aware of the regulations, but also be able to defend their use of these rented and purchased videotapes in light of the current law.

1. The sales of prerecorded videocassettes and videodiscs do not confer any public or performance rights upon the purchaser.
2. Public or performance rights are conveyed only through purchase of a separate license from the copyright owner. It is a violation of federal law to exhibit prerecorded videocassettes and videodiscs beyond the scope of the family and social acquaintances — regardless of whether or not admission is charged. Ownership of videocassettes and videodiscs does not constitute ownership of copyright.

There is, however, an exception to the above arising from Section 110(1) of the Copyright Law. This section of the law authorizes a wide variety of performances and displays in *face-to-face teaching*, but there are important limitations.

1. The copies must be legitimate copies, that is, either purchased from legitimate sources or leased from a licensed distributor.
2. The performances and displays must take place in a classroom or similar place devoted to instruction.
3. The performances and displays must be part of a systematic course of instruction and **NOT FOR ENTERTAINMENT, RECREATION OR CULTURAL VALUE.**
4. The performances and displays must be given by the instructors or pupils.
5. The performances and displays must be given in the classroom or other place devoted to instruction and not transmitted to broadcast or cable television.
6. The performances and displays must be part of the teaching activities of a non-profit educational institution.
7. The performances and displays are limited to instructors, pupils and guest lecturers.

USING COPYRIGHTED VIDEOTAPES

A TEACHER MAY:

- © use in face-to-face instruction a videocassette PURCHASED BY THE SCHOOL even though it bears a warning label FOR HOME USE ONLY. The key is that the tape is INCORPORATED AS PART OF THE SYSTEMATIC TEACHING activities of the program in which it is being used.
- © use for instructional purposes a RENTAL VIDEOCASSETTE bearing the FOR HOME USE ONLY label if the school has obtained a release statement from the rental agency granting permission for instructional use of the program.

A TEACHER MAY NOT: (without express written permission from copyright owner)

- ⊗ use either a purchased or rental video program labelled FOR HOME USE ONLY in other than planned, direct, instructional activities. The program may NOT be used for entertainment, fundraisers, nor time-fillers. Any use, other than instructional, must be negotiated at the time of purchase or rental, usually in the form of a licensing agreement.
- ⊗ make an archival or back-up copy of a copyrighted film or tape.

Guidelines for Computer Programs

101. Definition

A “computer program” is a set of statements or instructions to be used directly or indirectly in a computer in order to bring about a certain result.

108. Updates in the Digital Millennium Copyright Act

Updated to permit up to three (3) digital preservation copies of a copyrighted work and to loan those to qualifying institutions. Digital preservation of works in obsolete formats was allowed.

117. Limitations on exclusive rights: Computer Programs

Notwithstanding the provisions of section 106, 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:

1. that such new copy or adaptation is created as 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
2. that such a new copy or 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.

Any exact copies prepared in accordance with the provisions of this section may be leased, sold, or otherwise transferred, along with the copy from which such copies were prepared, only as part of the lease, sale or other transfer of all rights in the program. Adaptations so prepared may be transferred only with the authorization of the copyright owner.

Discussion

The Copyright Law allows an individual or institutional owner of a program to be able to legally modify or adapt a program to meet local needs and to make a copy of such a program to use on their machine. It also allows the creation of ONE (1) archival or back-up copy to be used in case the original is destroyed or no longer functions. However, the law does NOT permit continuing to generate more replacement copies from the ARCHIVAL copy. The archival copy is there for protection while ordering a replacement for the defective original. When programs are loaded onto a hard drive, the original serves as a back-up copy.



An educational institution cannot make an adaptation of a program to meet local needs and then make multiple copies for distribution throughout the institution. Any copies made for archival or adaptation purposes cannot be sold, leased, given away or otherwise transferred without written permission of the copyright owner.

The Digital Copyright Act (PL 105-304) allows schools

1. Temporary copies of computer programs may be made during computer maintenance.
2. Unauthorized access to a work through circumventing a technological protection measure put in place by a copyright owner is prohibited.

As role models to students, educators should not use illegal copies of software with students or allow them to see illegal copies in use. Nor should staff trade with or ask students to produce illegal copies. Teachers should exercise reasonable care in protecting the copyrighted software owned by the district from being copied by students. A teacher who allows students to violate the Copyright Law may share legal liability with the student.

The 80-20 Rule

The 80-20 rule has been endorsed by most, but not all, software producers. It allows a person to purchase a computer program product and load it on their hard drive at both work and at home. The governing factor is that the program will never be used simultaneously at home and at work. It will never be used more than 20 per cent of the time on their home computer.

Some companies have loosened this rule to say that it can be used at home or at work an unlimited percentage of the time, but can never be used simultaneously at both locations. Other companies specifically exclude the 80-20 Rule in their licensing agreements.

Check with the producer or copyright holder of your software to verify legal and legitimate uses.

A TEACHER MAY:

- © make an archival or back-up copy of a copyrighted program that has been purchased. The copy may be used if the original has been damaged and has been sent to the publisher for repair.
- © make an archival copy even if the “shrink-wrap” label says you cannot²
- © use the back-up copy and store the original program if permission is expressly given by the publisher. Refer to program documentation.
- © adapt a copyrighted program from one language to another for which it is not commercially available or add features to a program to better meet local needs.
- © load a program on the hard drive of one computer.
- © obtain a site license for a specific number of computers for a program.
- © obtain written permission from copyright holder to use the software in a manner that could be a violation of the copyright law.
- © as part of concepts such as theft, honesty, the rights of others, teach the ethical and practical problems caused by software piracy.

² Talab, R.S., p. 62

A TEACHER MAY NOT: (without express written permission from the software publisher or copyright owner)

- ⊗ simultaneously use the original and back-up copy.
- ⊗ make multiple copies of copyrighted software (or a locally produced adaptation or modification), even for use within a school or school district.
- ⊗ make replacement copies from an archival or back-up copy.
- ⊗ make copies of copyrighted software (or a locally produced adaptation or modification) to be sold, leased, loaned, transmitted, or even given away to other users.
- ⊗ load a copyrighted program into several computers or a network from the same diskette and use them simultaneously without a site license.
- ⊗ make multiple copies of the printed documentation that accompanies copyrighted software without a license to do so.
- ⊗ make one archival or back-up copy of a copyrighted program that has been LICENSED to the user (or district) if the license agreement specifically prohibits the creation of an archival/back-up copy.
- ⊗ use or permit the use of illegally copied software on district-owned computers.

Guidelines for Database Downloading

Downloading involves the transmission of data from a remote or host computer to the user's on-site premises memory device for later researching, manipulation, or storage. This information applies to downloading from commercial vendors, and not from files created on LaneNet.

Databases and compilations generally allow fair use to a greater degree than other literary works.³

INTERNET

When downloading information from the Internet, it may or may not be copyrighted material. It is *your* obligation to determine this. This can usually be done by checking the "readme.txt" or "license.doc" files. Rules may vary from file to file within the same service provider. Some copyrighted materials may have been posted on the Internet without permission.

A TEACHER OR STUDENT MAY:

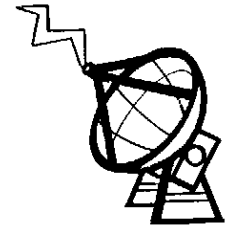
- © download to the printer bibliographic citations or full text of a document identified during a search of a commercial service such as EBSCOhost, as the terms of the school's contract with the vendors specify. It is assumed that the user will require no more than 20-30 stations, will be using a legitimate password/subscription for invoice purposes, and has local approval to order, receive, and provide payment for a full-text document or citations. (It is permissible to charge students/teachers for the cost of the search plus a reasonable surcharge.)
- © use downloaded material for individual research or teaching with proper citations.
- © make alternations to support specific objectives, but it must be noted that alterations have been made.

A TEACHER OR STUDENT MAY NOT: (without express written consent of the database vendor)

- ⊗ keep archival copies of downloaded works that are copyrighted.
- ⊗ download a "substantial taking" (complete database or more of the records).
- ⊗ make commercially available the downloaded material. All four fair-use criteria apply to downloading, but the economic aspect has generally been regarded to be the most important.

³ Talab, R.S., p. 65

Guidelines for Satellite Programs (Distance Learning)



Whenever satellite-delivered programming is used in distance learning, either partially or wholly original, copyright issues must be considered and resolved prior to the time the program is aired. Among the rights reserved to the copyright holder are:

- the sole right to authorize duplication;
- the sole right to prepare derivative works based upon the original;
- the sole right to publicly perform the work; and
- the right to publicly display the work.

A TEACHER MAY:

- © Utilize and distribute satellite-delivered programming only within the terms and rights as specified in the contractual and/or licensing agreements entered into with the program service provider.

Each of these rights will vary from program to program and series to series. If a school or educational agency wishes to exhibit, duplicate, or transmit programming in any way not specifically designated by the service provider, it is incumbent upon the school or agency to obtain the most accurate information possible to assure there are no violations of copyright.

Guidelines for Multimedia Productions

Multimedia productions often combine text, graphics, images, animation, audio, motion video and computer authoring systems from a variety of sources. This area of copyright is fairly new and the number of test cases in court is limited. It is still good to know how the use of these materials is affected by legal decisions. All of the general copyright conditions for other materials are applicable here.

GENERAL AGREEMENTS

If you are using your project locally in your own classroom and have no plans to distribute your work, then few practical restrictions apply. If you plan to distribute your work either for charge or informally without charge, you will need to make the same permission arrangements that you would make in publishing a book for a professional paper. You will need a permission letter or a release form from each copyright holder. It is possible for a teacher of the same subject or grade level within your school site to share resources that you have produced. Distribution beyond your own school, however, would require permissions.

Conference on Fair Use (CONFU): Remember, only the courts can determine whether a use is truly “fair use.” A License Agreement may govern the use of some works, and users should refer to the applicable license terms for guidance. U.S. Government works or works on which the copyright has expired have no copyright restrictions.

Today’s technology — including scanners, digital samplers and video frame grabbers — makes it possible to copy almost anything and to alter the original. But having the technology to do it and the right to do it are two separate issues.

Conference of Fair Use (CONFU)

Summary of "Fair Use Guidelines for Educational Multimedia"

1.3 Applicability of these Guidelines

These guidelines apply to the use, without permission, of lawfully acquired copyrighted works in educational multimedia projects created by educators or students as part of a learning activity. These projects incorporate students or educators’ original material, commentary, together with various copyrighted media formats including motion, music text, graphics, illustrations, photos, and digital software combined into an integrated presentation.

2.1 Multimedia projects by Students

Students may incorporate portions of lawfully acquired copyrights works when producing their own education mm projects for a specific course.

2.2 MM by Educators for Curriculum-based Instruction

Educators may incorporate portions of copyrighted works when producing their own educational multimedia projects for their own teaching tools in support of curriculum-based activities.

3. Permitted Uses of Educational Multimedia Projects Created Under these Guidelines.

- 3.1 Students may perform and display their own educational mm projects in the classes for which they were created and may use them in their own portfolios as examples of their academic work for later personal uses and as job and graduate school interviews.
- 3.2 Educator Use allows them to perform and display their own mm projects to students in the following situations:
 - 3.2.1 face-to-face instruction,
 - 3.2.2 assigned to students for directed self-study,
 - 3.2.3 For remote instruction to students enrolled in curriculum-based courses and located at remote sites, provided there are technological limitations on access to the network and educational multimedia project and provided technology prevents making copies of copyrighted material.
- 3.3 Educators may perform or display their own educational mm project

A TEACHER OR STUDENT MAY:

- © incorporate portions of legally acquired copyrighted works when producing their own educational multimedia projects for a specific course, if they give credit.
- © incorporate portions of legally acquired copyrighted works when producing multimedia projects for teaching tools in support of curriculum-based instructional activities at educational institutions.
- © use multimedia projects created for coursework in their personal portfolios as examples of their academic work.
- © use multimedia projects for instruction at remote sites, provided they are on a secure electronic network in real-time, or for after class review or self-study, providing no copying can take place.
- © perform or display their own multimedia projects for presentations to their peers at workshops and conferences.
- © use up to 10% or 3 minutes, whichever is less, or a copyrighted motion picture.
- © use up to 10% or 1000 words of a text media item.
- © use an entire poem of less than 250 words, but no more than three poems by one poet or five poems total from an anthology.
- © use of to 5 images by an artist or photographer.
- © may make a copy for each principal creator when projects are jointly created. Each creator may retain one copy.

A TEACHER MAY NOT:

- ⊗ use their educational multimedia projects beyond a period of two years after the first instructional use with a class. Use beyond that time requires written permission for each copyrighted item.
- ⊗ exceed the “Fair Use Guidelines” section on portion limitations for multimedia. (See page 2.)
- ⊗ use more than 30 seconds of music and lyrics from an individual musical work (or in the aggregate of extracts from an individual work.
- ⊗ make alterations to a musical work that fundamentally change the character of the work.
- ⊗ exceed two copies of a multimedia work, only one of which can be on reserve for student to use.
- ⊗ make a Web version of a print or on-line journal without permission or licensing.

TEACHERS AND STUDENTS MUST:⁴

- ✓ credit sources and copyright ownership information either on each screen or on the credit screen;
- ✓ use multimedia projects for educational purposes, not commercial purposes; and
- ✓ destroy multimedia projects after two years after the first use with a class, unless used by a teacher for review, job interviews, or personal portfolios, job intervention, or graduate school interviews.

⁴Talab, R.S., p. 75

Guidelines for Internet Use

Email is considered to be the copyright property of the author or of the employer if work-related. Sending a copy of someone else's email without permission is considered to be making a copy. Asking permission to forward a copy is not only technically required, but it is also good form.

HTML copies are generally fair use for students to copy and print out for purposes of scholarship and research. However, copying the content, if copyrighted, is not allowed.

Web Pages operated by schools need to follow all of the copyright clearance and fair use guidelines. Teachers should obtain parental approval before putting student work on a web page.

A TEACHER OR STUDENT MAY:

- © make lists to other web locations
- © copyright a personal web page
- © copy sections of HTML for class use

A TEACHER OR STUDENT MAY NOT:

- ⊘ make links to other pages that do not show credits and copyright holder's information.
- ⊘ quote entire contents of another person's email or visitors without permission.

Copyright Web Sites

www.ksu.edu/uauac/intprop

Intellectual Property Information Center, Kansas State University

www.benedict.com

The C©pyright Website

www.copyright.com

Copyright Clearance Center

www.educause.edu/policy/policy.html

Educause policy issues

www.lib.siu.edu/regional/copyright.html

Copyright issues & information

www.eff.org/pub/CAF/law/ip-primer

an Intellectual property law primer for multimedia and web developers

www.iupui.edu/~copyinfo

Indiana University - Purdue University Indianapolis Copyright Management Center

www.batnet.com/oikoumene

WWW Multimedia Law

www.oikoumene.com/oikoumene/mmlinks.html

Multimedia Law Repositories & Related Links

www.sju.edu/THE_INTERNET/copyright.html

Saint Joseph's University Web Project and Copyrights

www.emich.edu/~linguist/citing.html

Citing On-line Sources



Copyright Bibliography

The following titles are available from the Teaching Resource Center on a two-week check out basis. If you have questions, please call the Lane ESD Teaching Resource Center at 461-8292.

BOOKS

- 341.7582 Bielefield, Arlene
Bie Technology and copyright law: A Guidebook for the library, research, and teaching professions. Neal-Schuman Publishers, 1997. 213 p.
- 341.7582 Bruwelheide, Janis H.
Bru The Copyright primer for librarians and educators. American Library Association, 1995. 151 p.
- 341.7582 DuBoff, Leonard D.
DuB High-tech law (in plain English): An Entrepreneur's guide. Copyright Information Services, 1991. 228 p.
- 341.7582 Dukelow, Ruth H.
Duk The Library copyright guide. Copyright Information Services, 1992. 140 p.
- 341.7582 Howie, Margaret-Ann F.
How Copyright issues in schools: Learn how to protect yourself and your school from violating copyright law. LRP Publications, 1997. 200 p.
- 341.7582 Johnson, Beda
Joh How to acquire legal copies of video programs: Resource information. Video Resources Enterprises, 1986. 29 p.
- 341.7582 Miller, Jerome K.
Mil Video copyright permissions: A Guide to securing permission to retain, perform, and transmit television programs videotaped off the air. Copyright Information Services, 1989. 132 p.
- 341.7582 Reed, Mary Hutchings
Ree The Copyright primer for librarians and educators. National Education Association, 1987. 60 p.
- 341.7582 Simpson, Carol Mann
Sim Copyright for school libraries: A Practical guide. Linworth Publishers, 1994. Various paging.
- 341.7582 Simpson, Carol Mann
Sim Copyright for schools: A Practical guide. Linworth Publishers, 1997. 116 p.
- 341.7582 Steinhilber, August W.
Ste Copyright law: A Guide for public schools. National School Boards Association, 1986. 121 p.
- 341.7582 Talab, R.S.
Tal Commonsense copyright: A Guide for educators and librarians. McFarland & Company, 1999. 292 p.

- 341.7582 Vlcek, Charles W.
Vlc Adoptable copyright policy: Copyright policy and manuals designed for adoption by schools, colleges & universities. Copyright Information Services, 1992. 116 p.
- 341.7582 Vlcek, Charles W.
Vlc Copyright policy development: A Resource book for educators. Copyright Information Services, 1987. 164 p.
- 370 Phi Delta Kappa Educational Foundation
Phi Copyright in the age of new technology. Phi Delta Kappa Educational Foundation, 1996. 37 p.
- 370 Phi Delta Kappa Educational Foundation
Phi Music copyright law in education. Phi Delta Kappa Educational Foundation, 1994. 41 p.
- 370 Phi Delta Kappa Educational Foundation
Phi What educators should know about copyright. Phi Delta Kappa Educational Foundation, 1986. 50 p.

The following items are available from the Media Library and can be booked using our on-line system or by calling the Lane ESD Booking Department at 461-8220.

VIDEOS

- MV 920336 It's just not worth the risk. 12 min. color, 1/2 in. VHS. 1991.
- MV 940107 Copyright law: What every school, college and public library should know. 21 min. color, 1/2 in. VHS. 1986.
- MV 950910 Multimedia fair use guidelines. 120 min. color, 1/2 in. VHS. 1995.
- MV 970203 Fair use guidelines for educational multimedia. 120 min. color, 1/2 in. VHS. guide. 1997.
- MV 970645 A Shared set of values: Copyright and intellectual property in the academic community. 12 min. color, 1/2 in. VHS. 1996.
- MV 970846 Copyright: The Internet, multimedia and the law. 2 videos, 20 min. each, 1/2 in. VHS. 1996.
- MV 980238 It's illegal. 10 min. color, 1/2 in. VHS. 1991.
- MV 980885 The Basics. 40 min. color, 1/2 in. VHS. 1997.
- MV 980886 The Educational use of copyrighted material. 65 min. color, 1/2 in. VHS. 1997.

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