

Copyright Law Compliance**Use of Copying Devices and Copied Materials****General Responsibilities**

1. The Superintendent or his/her designee will disseminate and interpret copyright regulations, control the approval process, maintain written records regarding permissions, response to requests and license agreements, as may be necessary.
2. School administration will ensure those budget recommendations include appropriate funds for the purchase of multiple copies of needed software and/or site licenses.
3. School administration will ensure that building computers and computer labs are used only with proper supervision to help protect against unauthorized copying.
4. All computer software license agreements must be signed by the Superintendent or Director of Technology.
5. The employee reproducing a copyrighted work will determine whether copying is permitted by law in accordance with District policy and administrative regulations.
6. The employee will obtain written permission to reproduce copyrighted materials whenever the copying does not fall within the "fair use" guidelines of copyright law.
7. The employee using technology will be responsible to ensure that the intended use of the media does not conflict with copyright law. Such technology includes, but is not limited to digital video, videodisk, satellite transmission, distance learning, CD-ROM, online databases, informational networks, and other emerging electronic information that can be manipulated into new copyrightable forms of expression.

Guidelines to Follow

The Copyright Law (Public Law 94-553) requires that all employees honor the following guidelines for classroom copying. Failure to do so could expose the employee and the District to legal challenge and possible monetary damages.

Books and Periodicals**1. Single Copying for Teachers**

A single copy may be made of any of the following by or for a teacher at his/her individual request for his/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.
- d. A chart, graph, diagram, drawing, cartoons or pictures from a book, periodical, or newspaper.

2. 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 teacher for classroom use or discussion, provided that:

- a. The copying meets the test of brevity and spontaneity as defined below.
- b. The copying meets the cumulative effect test as defined below.
- c. Each copy includes a notice of copyright.

3. Definitions**A. Brevity**

- i. Poetry: A complete poem if fewer than 250 words, and if printed on not more than two pages, or from a longer poem, an excerpt of not more than 250 words.
- ii. Prose: Either a complete article, story or essay of fewer than 2,500 words, or an excerpt from any prose work or not more than 1,000 words or 10% of the work, whichever is less, but in any event a minimum of 500 words.
- iii. Illustration: One chart, graph, diagram, drawing, cartoons or pictures per book or per 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 for children and at other times for more general audience and fall short of 2,500 words in their entirety. Subparagraph ii above 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

- i. The copying is at the instance and inspiration of the individual teacher.
- 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 copies are made.
- ii. Not more than one short poem, article, story, essay or two excerpts may be copied from neither the same author nor more than three from the same collective work or periodical volume during one class term.
- iii. There shall not be more than nine instances of such multiple copying for one course during one class term. (The limitation stated in (ii) and (iii) above shall not apply to current news periodicals and newspapers and current news sections of other periodicals.)

4. Prohibitions

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

- A. Copying shall not be used to create or to replace or substitute for anthologies, compilations or collective works. Such replacement or substitution may occur whether copies of various works or excerpts therefrom are accumulated or 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 similar consumable material.

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- C. Copying shall not:
 - i. Substitute for the purchase of books, publishers' reprints or periodicals.
 - ii. Be directed by higher authority.
 - iii. Be repeated with respect to the same item by the same teacher from term to term.
- D. No charge shall be made to the student beyond the actual cost of the photocopying.

Educational Uses of Music (Sheet and Recorded Music)

- 1. Permissible Uses
 - A. Emergency copying to replace purchased copies, which for any reason are not available, for an imminent performance provided purchased replacement copies shall be substituted in due course.
 - B. For academic purposes other than performance, 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 or aria, but in no case more than 10% of the whole work. The number of copies shall not exceed one copy per student.
 - C. For academic purposes other than performances, a single copy of an entire performable unit (section, movement, aria, etc.) that is confirmed by the copyright proprietor to be out of print or unavailable except in a larger work may be made by or for a teacher solely for the purpose of his or her scholarly research or in preparation to teach a class.
 - D. Printed copies which have been purchased may be edited or simplified provided that the fundamental character of the work is not distorted or the lyrics, if any, altered or lyrics added if none exist.
 - E. A single copy of a sound recording (such as a tape, disc or cassette) of copyrighted music may be made from sound recording 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 case of sound recording.)
 - F. A single recording may be made and retained of student performances of copyrighted material when it is made for purposes of evaluation or rehearsal.
 - G. Performances of nondramatic musical works which are copyrighted are permitted without the authorization of the copyright owner, provided that:
 - i. The performance is not for a commercial purpose;
 - ii. None of the performers, promoters or organizers are compensated; and
 - iii. Admission fees are used for educational or charitable purposes only.
 - iv. All other musical performances require permission from the copyright owner.
- 2. Prohibitions
 - A. Copying to create or replace or substitute for anthologies, compilations, or collective works.
 - B. Copying of or from works intended to be "consumable" in the course of study or of teaching such as workbooks, exercises standardized tests and answer sheets and similar material.

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- C. Copying for the performance, except as in 1.A. above.
- D. Copying for the purpose of substituting for the purchase of music, except as in 1.A. and 1.B. above.
- E. Copying without inclusion of the copyright notices which appear on the printed copy.

Performances of Dramatic Works: Exemptions

1. Face-to-face teaching activities are exempt from authorization from the copyright owner for performances by teachers or students of copyrighted dramatic works as part of a teaching activity in a classroom or instructional setting. Playing recordings in class also falls under this category. This exemption does not apply to:
 - Performances by actors, singers, or instrumentalists brought in from outside the school to put on a program.
 - Performances given for the recreation or entertainment of any part of an audience.
 - Performances in an auditorium or stadium during a school assembly, graduation ceremony, class play, or sporting event, where the audience is not confined to the members of a particular class.

Such performances listed above require permission from the copyright owner.

2. Performances at a school concert, as long as no money changes hands, of nondramatic literary or musical works, are exempt from authorization by the copyright owner. No one can gain any direct or indirect commercial advantage; no fee or compensation can be paid to performers, promoters or organizers; and no admission charge can be levied. If an admission fee is charged, all proceeds must be used only for educational or charitable purposes.

A student concert at a shopping mall is not exempt because the mall gains an indirect commercial advantage.

Reproduction by Libraries

It is not a copyright infringement for a library, or any of its employees acting within the scope of their employment, to reproduce or distribute not more than one copy of a work, provided:

1. The reproduction or distribution is made without any purpose of direct or indirect commercial advantage.
2. The collections of the library or archives are open to the public or available not only to researchers affiliated with the library or archives but also to other persons doing research in a specialized field.
3. The reproduction or distribution of the work includes a notice of copyright.

The reproduction of multiple copies of the same material, whether made on one occasion or over a period of time, and whether intended for aggregate use by one individual or for separate use by the individual members of a group, is not authorized.

Libraries are generally exempt from liability for the unsupervised use of reproducing equipment located on its premises, provided that the reproducing equipment displays a notice that the making of a copy may be subject to copyright law.

Off-Air Recording of Broadcast Programming

In the absence of a special licensing agreement, the following guidelines for videotaping broadcast programming apply.

1. Commercial Broadcast Programming

Broadcast programs are television programs transmitted by television stations for reception by the general public without charge.

- A. A broadcast program may be recorded off-air simultaneously with its transmission (including simultaneous cable retransmission) and retained for a period not to exceed the first 45 consecutive calendar days after the date of recording. Upon the conclusion of such retention period, all off-air recordings must be erased or destroyed immediately.
- B. 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 other instruction spaces. This use must occur within the first 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.
- C. 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.
- D. 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.
- E. 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 is subject to all of the provisions governing the original recording.
- F. After the first 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.
- G. Off-air recording need not be used in their entirety but may not be altered from their original content. They may not be physically or electronically combined or merged to constitute teaching anthologies or compilations.
- H. All copies of off-air recordings must include the copyright notice on the broadcast program as recorded.

2. Public Broadcast Programming

Videotape recorders may be used under the following conditions:

- A. School rerecordings may be made only by students, teachers, and faculty or staff members.
- B. School rerecordings will be used solely for classroom, auditorium or laboratory exhibition in the course of classroom instruction or related educational activities.
- C. School rerecordings will be used only in the educational institution for which made, and will not be given away, loaned, or otherwise made available outside the school.

Showing Audiovisual Works in Non-Profit Institutions

1. Permissible uses
 - A. They must be shown as part of the instructional program.
 - B. They must be shown by students, instructors, or guest lecturers.
 - C. They must be shown either in a classroom or other school location devoted to instruction such as a studio workshop, library, gymnasium, or auditorium if that space is used for instruction.
 - D. They must be shown either in a face-to-face setting or where students and teacher(s) are in the same building or general area.
 - E. They must be shown only to students and educators.
 - F. They must be shown using a legitimate (that is, not illegally reproduced) copy with the copyright notice included.
2. Prohibited use
 - A. The works are used for entertainment, recreation, or even for cultural or intellectual value but are unrelated to teaching activity.
 - B. They are shown in an auditorium or stadium before an audience not confined to students, such as a sporting event, graduation ceremony, or community lecture or art series.
 - C. They involve an illegally acquired or duplicated copy of the work.

(Guidelines from Section 110(l) and 110(4) of Copyrights Act and House Report.)

Copyrighted Computer Software

1. Copying computer software

Because, of the complexity of computer software licensure, the user is advised to read and abide by the license agreement, which accompanies the software.

The owner of a copy of a computer program may make or authorize the making of another copy or adaptation of the program provided:

- A. 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
- B. That such 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. (United States Code, Section 117, Title 17 paraphrased)
- C. It is illegal to make duplicate copies of a computer program for distribution to and use by anyone other than the owner of the master copy. Archival copies should be stored in a secure location with appropriate heat and humidity controls.
- D. Archival copies should be stored in a secure location with appropriate heat and humidity controls.

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2. Using Computer Software (copyrighted and shareware)
 - A. In the absence of special licensure, computer programs purchased as single-machine versions may not be downloaded into multiple computers simultaneously either physically (sequential booting) or electronically (on a network).
 - B. District computers may not be used to make illegal copies of copyrighted computer software.
 - C. In public areas, which have computers capable of copying software, this warning should be displayed: Many computer programs are protected by copyright. Unauthorized copying may be prohibited by law.
 - D. Users wishing to use a disk (program or data disks) brought from outside of the building must check the disk(s) for viruses prior to using the disk(s) in school computers.
 - E. Users may not load software onto the district's computer hard drives or networks without prior approval.
 - F. Users must abide by policies, regulations, and guidelines for using networks. A network is any means by which computers, computer services, and related technologies are linked. It includes, but is not limited to, local, wide-area, commercial, and Internet networks.
3. Computer Licenses

The Business Manager is responsible for negotiating and signing licensing agreements for computer software, hardware, or networks. Individuals and individual schools shall refrain from entering into licensing agreements.

Downloadable Programming

Current guidelines for the educational use of electronic transmissions from off-site technology are not well defined. The following recommendations preserve the intent and spirit of copyright law and fair use guidelines.

- A. Technology should not be used to capture licensed programming illegally.
- B. Captured, off-site transmissions should be used for face-to-face instruction, not entertainment.
- C. When programming requires special licensing, the terms of the license must be observed, including taping and duplication rights.

Educational Multimedia

Introduction

Under the Copyright Act of 1976, copyright owners have the exclusive right to reproduce, prepare derivative works, distribute, perform, display, transfer ownership, rent or lend their creations. Under the same Act, the "fair use" exemption places a limit on these exclusive rights to promote free speech, learning, scholarly research, and open discussion. Accordingly, under the Act, educators may use portions of copyrighted material if the purpose and character of the use are educational in nature, previously published, not a substantial part of the entire work and if the marketability of the work is not impaired by the use.

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Many technological developments have occurred since 1976. The fair use exemption contained in the Copyright Act must again be interpreted by copyright owners and the educational community to allow educators to apply the Act in light of these new technologies.

The following guidelines do not represent a legal document, nor are they legally binding. They do represent an agreed-upon interpretation of the fair use provisions of the Copyright Act by the overwhelming majority of institutions and organizations affected by educational multimedia.

Definitions

These guidelines apply to the use, without permission, of portions of lawfully acquired copyrighted works in educational multimedia projects which are created by educators or students as part of a systematic learning activity by nonprofit educational institutions. Educational multimedia projects created under these guidelines incorporate students' or educators' original material, such as course notes or commentary, together with various copyrighted media formats including but not limited to, motion media, music, text material, graphics, illustrations, photographs and digital software which are combined into an integrated presentation. Educational institutions are defined as nonprofit organizations whose primary focus is supporting research and instructional activities of educators and students for non-commercial purposes.

For the purposes of the guidelines, educators include faculty, teachers, instructors, and others who engage in scholarly research and instructional activities for educational institutions. The copyrighted works used under these guidelines are lawfully acquired if obtained by the institution or individual through lawful means such as purchase, gift or license agreement but not pirated copies. Educational multimedia projects which incorporate portions of copyrighted works under these guidelines may be used only for educational purposes in systematic learning activities including use in connection with non-commercial curriculum-based learning and teaching activities by educators to students enrolled in courses at nonprofit educational institutions or otherwise permitted under Section 3. While these guidelines refer to the creation and use of educational multimedia projects, readers are advised that in some instances other fair use guidelines such as those for off-air taping may be relevant.

1. Preparation of Educational Multimedia Projects using Portions of Copyrighted Works.

These uses are subject to the Portion Limitations listed in Section 3. They should include proper attribution and citation as defined in Section 5.B.

A. By Students:

Students may incorporate portions of lawfully acquired copyrighted works when producing their own educational multimedia projects for a specific course.

B. By Educators for Curriculum-Based Instruction:

Educators may incorporate portions of lawfully acquired copyrighted works when producing their own educational multimedia programs for their own teaching tools in support of curriculum-based instructional activities at educational institutions.

2. Permitted uses of Educational Multimedia Programs Created under these guidelines

Uses of educational multimedia projects created under these guidelines are subject to the Time, Portion, Copying, and Distribution Limitations listed in Section 3.

A. Student Use:

Students may perform and display their own educational multimedia projects created under Section I of these guidelines for educational uses in the course for which they were created and may use them in their own portfolios as examples of their academic work for later personal uses such as job and graduate school interviews.

B. Educator use for Curriculum-Based Instruction

Educators may perform and display their own educational multimedia projects created under Section I for curriculum-based instruction to students in the following situations:

- i. For face-to-face instruction.
- ii. Assigned to students for directed self-study.
- iii. For remote instruction to students enrolled in curriculum-based courses and located at remote sites, provided over the educational institution's secure electronic network in real-time, or for after class review or directed self-study, provided there are technological limitations on access to the network and educational multimedia project (such as a password or PIN) and provided further that the technology prevents the making of copies of copyrighted material.

If the educational institution's network or technology used to access the educational multimedia project created under Section I of these guidelines cannot prevent duplication of copyrighted material, students or educators may use the multimedia educational projects over an otherwise secure network for a period of only 15 days after its initial real-time remote use in the course of instruction or 15 days after its assignment for directed self-study. After that period, one of the two use copies of the educational multimedia project may be placed on reserve in a learning resource center, library or similar facility for on-site use by students enrolled in the course. Students shall be advised that they are not permitted to make their own copies of the multimedia project.

C. Educator Use for Peer Conferences

Educators may perform or display their own multimedia projects created under Section I of these guidelines in presentations to their peers, for example, at workshops and conferences.

D. Educator Use for Professional Portfolio

Educators may retain educational multimedia projects created under Section I of these guidelines in their personal portfolios for later personal uses such as tenure review job interviews.

3. Limitations - Time, Portion, Copying and Distribution

The preparation of educational multimedia projects incorporating copyrighted works under Section 1, and the use of such projects under Section 2, are subject to the limitations noted below.

A. Time Limitations:

Educators may use their educational multimedia projects created for educational purposes under Section I of these guidelines for teaching courses, for a period of up to two years after the first instructional use with a class. Use beyond that time period, even for educational purposes, requires permission for each copyrighted portion incorporated in the production. Students may use their educational multimedia projects as noted in Section 2.A.

B. Portion Limitations:

Portion limitations mean the amount of a copyrighted work that can reasonably be used in educational multimedia projects under these guidelines regardless of the original medium from which the copyrighted works are taken. In the aggregate means the total amount of copyrighted material from a single copyrighted work that is permitted to be used in an educational multimedia project without permission under these guidelines. These limits apply cumulatively to each educator or student's multimedia project(s) for the same academic semester, cycle or term.

All students should be instructed about the reasons for copyright protection and the need to follow these guidelines. It is understood, however, that students in kindergarten through grade six may not be able to adhere rigidly to the portion limitations in this section in their independent development of educational multimedia projects. In any event, each such project retained under Section 3.A and 4.C should comply with the portion limitations in this section.

i. Motion Media

Up to 10% or 3 minutes, whichever is less, in the aggregate of a copyrighted motion media work may be reproduced or otherwise incorporated as part of a multimedia project created under Section 2 of these guidelines.

ii. Text Material

Up to 10% or 1000 words, whichever is less, in the aggregate of a copyrighted work consisting of text material may be reproduced or otherwise incorporated as part of a multimedia project created under Section 2 of these guidelines. An entire poem of fewer than 250 words may be used, but no more than three poems by one poet or five poems by different poets from any anthology may be used. For poems of greater length, 250 words may be used but no more than three excerpts by a poet or five excerpts by different poets from a single anthology may be used.

iii. Music, Lyrics, and Music Video

Up to 10%, but in no event, more than 30 seconds, of the music and lyrics from an individual musical work (or in the aggregate of extracts from an individual work), whether the musical work is embodied in copies, or audio or audiovisual works, may be reproduced or otherwise incorporated as a part of a multimedia project created under Section 1. Any alterations to a musical work shall not change the basic melody or the fundamental character of the work.

iv. Illustrations and Photographs

The reproduction or incorporation of photographs and illustrations is more difficult to define with regard to fair use because it usually precludes the use of an entire work. Under these guidelines, a photograph or illustration may be used in its entirety but no more than 5 images by an artist or photographer may be reproduced or otherwise incorporated as part of an educational multimedia project created under Section 1. When using photographs and illustrations from a published collective work, not more than 10% or 15 images, whichever is less, may be reproduced or otherwise incorporated as part of an educational multimedia project created under Section 1.

v. Numerical Data Sets

Up to 10% or 2500 fields or cell entries, whichever is less, from a copyrighted database or data table may be reproduced or otherwise incorporated as part of an educational multimedia project created under Section I of these guidelines. A field entry is defined as a specific item of information, such as a name or Social Security number, in a record of a database file. A cell entry is defined as the intersection where a row and a column meet on a spreadsheet.

C. Copying and Distribution Limitations

Only a limited number of copies, including the original, may be made of an educator's educational multimedia project. For all of the uses permitted by Section 2, there may be no more than two use copies only one of, which may be placed on reserve as described in Section 2.B.3.

An additional copy may be made for preservation purposes but may only be used or copied to replace a used copy that has been lost, stolen, or damaged. In the case of a jointly created educational multimedia project, each principal creator may retain one copy but only for the purposes described in Sections 2.C and 2.D for educators and Section 2.A for students.

4. Examples of When Permission Is Required

A. Using Multimedia Projects for Non-Educational or Commercial Purposes

Educators and students must seek individual permissions (licenses) before using copyrighted works in educational multimedia projects for commercial reproduction and distribution.

B. Duplication of Multimedia Projects Beyond Limitations Listed in These Guidelines

Even for educational uses, educators and students must seek individual permissions for all copyrighted works incorporated in their personally created educational multimedia projects before replicating or distribution beyond the limitations listed in Section 3.C.

C. Distribution of Multimedia Projects Beyond Limitations Listed in These Guidelines

Educators and students may not use their personally created educational multimedia projects over electronic networks, except for uses as described in Section 2.B.3, without obtaining permissions for all copyrighted works incorporated in the program.

5. Important Reminders**A. Caution in Downloading Material from the Internet**

Educators and students are advised to exercise caution in using digital material downloaded from the Internet in producing their own educational multimedia projects because there is a mix of works protected by copyright and works in the public domain on the network. Access to works on the Internet does not automatically mean that these can be reproduced and reused without permission or royalty payment and, furthermore, some copyrighted works may have been posted to the Internet without authorization of the copyright holder.

B. Attribution and Acknowledgment

Educators and students are reminded to credit the sources and display the copyright notice "C" and copyright ownership information if this is shown in the original source, for all works incorporated as part of the educational multimedia projects prepared by educators and students, including those prepared under fair use. Crediting the source must adequately identify the source of work, giving a full bibliographic description where available (including author, title, publisher, and place and date of publication). The copyright ownership information includes the copyright notice "C", year of first publication and name of the copyright holder).

The credit and copyright notice information may be combined and shown in a separate section of the educational multimedia project (e.g. credit section) except for images incorporated into the project for the uses described in Section 2.B.3. In such cases, the copyright notice and the name of the creator of the image must be incorporated into the image when, and to the extent, such information is reasonably available; credit and copyright notice information is considered "incorporated" if it is attached to the image file and appears on the screen when the image is viewed. In those cases when displaying source credits and copyrights ownership information on the screen with the image would be mutually exclusive with an instructional objective (e.g. during examinations in which the source credits and/or copyright information being simultaneously displayed on the screen. In such cases, this information should be linked to the image in a manner compatible with such instructional objectives.

C. Notice of Use Restrictions

Educators and students are advised that they must include on the opening screen of their multimedia program and any accompanying print material a notice that certain materials are included under the fair use exemption of the U.S. Copyright Law and have been prepared according to the multimedia fair use guidelines and are restricted from further use.

D. Future Uses Beyond Fair Use

Educators and students are advised to note that if there is a possibility that their own educational multimedia project incorporating copyrighted works under fair use could later result in broader dissemination, whether or not as commercial product, it is strongly recommended that they take steps to obtain permissions during the development process for all copyrighted portions rather than waiting until after completion of the project.

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E. Integrity of Copyrighted Works: Alterations

Educators and students may make alterations in the portions of the copyrighted works they incorporate as part of an educational multimedia project only if the alterations support specific instructional objectives. Educators and students are advised to note that alterations have been made.

F. Reproduction or Recompilation of Copyrighted Computer Programs

Educators and students should be aware that reproduction or recompilation of copyrighted computer programs and portions thereof, for example, the transfer of underlying code or control mechanisms, even for educational uses, are outside the scope of these guidelines.

G. Licenses and Contracts

Educators and students should determine whether specific copyrighted works or other data or information is subject to a license or contract. Fair use and these guidelines shall not preempt or supersede licenses and contractual obligations.

Legal Reference: Public Law 94-553, Title 17, et seq.
 House Report 94-1476, Congressional Record, September 11, 1976

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