LENAPE TECHNICAL SCHOOL

SECTION: OPERATIONS

TITLE: COPYRIGHT MATERIAL

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REVISED:

814. COPYRIGHT MATERIAL

1. Authority
   P.L. 94-553
   Sec. 107

The Joint Operating Committee emphasizes that the United States Code makes it illegal for anyone to duplicate copyrighted materials without permission. The Joint Operating Committee recognizes that severe penalties are provided for unauthorized copying of audio, visual, software or printed materials unless the copying falls within the bounds of the "fair use" doctrine.

2. Definition

Under the **fair use doctrine**, unauthorized reproduction of copyrighted materials is permissible for such purposes as criticism, comment, news reporting, teaching, scholarship or research. If duplicating or changing a product falls within the bounds of fair use, four (4) standards must be met:

1. THE PURPOSE AND CHARACTER OF THE USE. The use must be for such purposes as teaching or scholarship and must be nonprofit.

2. THE NATURE OF THE COPYRIGHTED WORK. Staff may make single copies of: book chapters for use in research, instruction or preparation for teaching; articles from periodicals or newspapers; short stories, essays or poems; and charts, graphs, diagrams, drawings, cartoons or pictures from books, periodicals or newspapers.

3. THE AMOUNT AND SUBSTANTIALITY OF THE PORTION USED. Copying the whole of a work cannot be considered fair use; copying a small portion may be if stated guidelines are followed.

4. THE EFFECT OF THE USE UPON THE POTENTIAL MARKET FOR OR VALUE OF THE COPYRIGHTED WORK. If resulting economic loss to the copyright holder can be shown, making even a single copy of certain materials may be an infringement; and making multiple copies presents the danger of greater penalties.

3. Delegation of Responsibility	Staff may make copies of copyrighted school materials that fall within stated guidelines. Where there is reason to believe the material to be copied does not fall within guidelines, prior permission shall be obtained from the Administrative Director. Staff members who fail to follow this policy may be held personally liable for copyright infringement.
4. Guidelines	<u>Permitted Copies</u> Multiple copies, not exceeding more than one per student, may be made for classroom use or discussion if the copying meets the tests of brevity, spontaneity and cumulative effect. Each copy must include a notice of copyright. A library or archive may reproduce one copy or recording of a copyrighted work and distribute it if: 1. Reproduction or distribution is made without any purpose of direct or indirect commercial advantage. 2. Collection of the library or archives is open to the public or is available not only to researchers affiliated with the library or archives or with the institution of which it is a part, but also to other persons doing research in a specialized field. 3. Reproduction or distribution of a work includes a notice of copyright. Libraries and their employees are not liable for unsupervised use**.** Copies of materials for face-to-face teaching activities involving performances or displays made by students or instructors, religious services, live performances without commercial advantage, and the use of instructional broadcasts are permitted. <u>Prohibited Copies</u> The law prohibits using copies to replace or substitute for anthologies, consumable works or compilations or collective works. **Consumable works** include: workbooks, exercises, standardized tests, test booklets and answer sheets. Teachers cannot substitute copies for the purchase of books, publishers' reprints or periodicals; nor can they repeatedly copy the same item from term to term. Copying cannot be directed by a higher authority; and students cannot be charged more than actual cost of photocopying. Schools must be licensed to play copyrighted music where the performer is paid or admission is charged, even if the admission is used to cover refreshment costs.

Off-Air Recordings

Broadcast programs may be recorded off-air simultaneously with broadcast transmission and retained by the school for a period not to exceed forty-five (45) consecutive calendar days after the date of recording. After this period of time, all recordings must be erased or destroyed immediately.

Program recordings may be used once by individual teachers in the course of relevant teaching activities, and repeated once only when instructional reinforcement is necessary, during the first ten (10) consecutive school days in the forty-five (45) day calendar day retention period.

After the first ten (10) consecutive school days, off-air recordings may be used up to the end of the forty-five (45) calendar day retention period only for evaluation purposes by the teacher.

Off-air recordings may be made only at the request of and use 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.

Off-air recordings need not be used in their entirety; but they may not be altered from their original content and may not be physically or electronically combined or merged to constitute teaching anthologies or compilations. Such recording must include the copyright notice on the broadcast program as recorded.

Videotapes/Optical Discs/Distance Learning/Audio-Visual Delivery Devices

A library, archive, or media center may reproduce one copy of a recording of a copyrighted work and distribute it in accordance with provisions of law. Recorded copies of copyrighted programs owned by a staff member or another person or a copy of a rental program are considered illegally made and may not be used for instruction purposes unless its use meets the fair-use test.

Rental videocassettes, laser discs and other optical media with the "home use only" warning label may not be used in a classroom, school assembly, or club unless specifically covered in the rental agreement.

Multimedia use of copyrighted material falls under the guidelines of the medium being used (e.g. computer, video, audio).

Distance learning is subject to copyright guidelines if copyrighted material is copied

or recorded during a transmitted lesson.

Closed-circuit distribution of a copyrighted work to classrooms in a school or campus is legal, as long as the transmission is used for instructional activity and not entertainment.

Off-air taping of broadcast programs is permitted to educational institutions for programs broadcast to the general public. Pay cable TV services and satellite broadcasts available at an extra charge are not allowed without permission from the copyright owner.

Certain restrictions for taping off-air broadcasts apply:

1. A recorded program can be used only twice within the first ten (10) school days following the broadcast; the second time is only for reinforcement purposes.

2. After using the recorded broadcast as stated above, the recorded program can be used by teachers only for evaluation purposes and must be erased at the end of forty-five (45) calendar days following the broadcast.

3. No program may be taped a second time by/for a given teacher, even if rebroadcasted.

4. Satellite reception of programming is subject to the same guidelines as off-air broadcasts.

Computer Software

Copies of software, including those downloaded via modem, other than "public domain" software, cannot be made without the permission of the vendor or copyright owner.

Illegal copies of copyrighted programs may not be made or used on school equipment.

A computer program may be legally copied only for the following reasons:

1. It is created as an essential step in the use of the computer program, such as automatic copying into memory when a program is loaded.

2. It is created as a backup or archival copy only. All backup and archival copies must be destroyed in the event the original program is erased or removed from inventory.

	Backup or archival copies may not be used simultaneously with the original program. Copying a copyrighted program from a computer hard drive to a floppy disc, for use as an additional copy, is illegal. Booting computer software in more than one machine at a time is unclear in the law. It is prudent to refrain from this practice until the law is clarified. **Booting** is defined as the loading of a computer program into the memory or a computer. Networking computer software is also illegal if the legal multiple user or site licenses have not been acquired from the vendor or copyright owner. **Networking** is the use of a single program in a single computer that is connected to other computers, permitting the program to be used simultaneously in more than one computer. Reproduction of original computer software manuals is also illegal, and copying must abide by the fair use guidelines. The school will provide expenditures for software as a budgetary item. Priority will be given to software that supports and/or is critical to curriculum or operating needs. All other software will be purchased if reasonable need is established and/or financial resources allow such purchase. Renting or leasing original copies of software by individuals without the express permission of the copyright owner is illegal.
Federal Regulations P.L. 94-553	