

The following guidelines and procedures are set forth to assist District staff with complying with federal copyright law. It is the responsibility of all District staff to become familiar with and abide by these procedures and the District copyright policy and to obey the requirements of the law. In no circumstances should it be necessary for District staff to violate copyright law in order to perform their duties properly.

Federal copyright law prohibits the reproduction, distribution, adaptation, public display and public performance of copyrighted materials without the permission of the copyright owner, unless such copying or use constitutes a "fair use" or is otherwise exempt under applicable law.

Fair Use

The "fair use" doctrine provides that certain unauthorized copying of a copyrighted work for purposes such as criticism, comment, news reporting, teaching, scholarship or research is not an infringement of copyright. Whether a particular use is a fair use depends on the facts of each case. The factors to be considered include:

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

This defense is fairly narrow, and all four factors are taken into account and balanced in light of the facts of the particular case. Under the first factor - purpose and character of use - a nonprofit educational purpose is more likely to be found to be a fair use. However, this is just one factor, and a nonprofit educational use does not automatically qualify as a fair use. The second factor looks at the nature of the copyrighted work. For example, use of a nonfiction work is generally given more latitude than use of a fictional work. The amount and substantiality of the portion used in relation to the whole is an important factor, and use of an entire work is far less likely to qualify as a fair use. Finally, the effect copying has on the market for a copyrighted work is often considered the most important factor in determining fair use.

It is important to note that the fair use doctrine is a case-by case balancing test and does not provide for a specific number of words, lines or notes that may be safely taken without permission as a fair use. However, certain fair use guidelines for classroom copying and educational multimedia uses have been established to try to provide some clarification for educators as to what constitutes a fair use in the educational context. These guidelines are not law, but were written to indicate legislative intent and are used as benchmarks against which copyright infringement is gauged. District staff may make copies of copyrighted materials without obtaining the permission of the copyright owner to the extent set forth in these guidelines.

A document entitled "*Copyright and Fair Use Guidelines for Educators*" (the "Guidelines") summarizing these guidelines and certain other permitted copying and uses of copyrighted material in the educational context is available on the school district web site at www.nthurston.k12.wa.us and a copy is available at each school library. Copies will also be provided upon request from the District designated Copyright Compliance Officer. These Guidelines are incorporated into this Procedure by reference and all District employees are expected to follow such Guidelines. Any classroom copying that exceeds these Guidelines must first be approved by the designated Copyright Compliance Officer.

Other Exemptions

In addition to the general fair use exemption provided under Section 107 of the Copyright Act, Section 110 more specifically exempts certain nonprofit performances and displays in instances of (1) face to face teaching, (2) transmissions of instructional activities and (3) certain nonprofit live performances. These exemptions are also summarized in the Guidelines.

General Limitations and Conditions

The Guidelines set forth in detail certain requirements, prohibitions and limitations concerning what may properly be copied by or on behalf of District staff without obtaining prior permission. Without limiting any of the information or requirements set forth in the Guidelines, please note the following general rules and procedures that apply to all District staff:

- A. Without the express permission of the copyright holder, District staff shall not:
1. Reproduce copyrighted material to create, replace or substitute for anthologies, compilations or collective works.
 2. Copy materials intended to be consumable, such as workbooks, exercises, test booklets, answer sheets and the like.
 3. Use copies to substitute for the purchase of books, publisher's reprints, periodicals, music or other copyrighted material;
 4. Copy the same item from term to term;

5. Charge a student for any copies beyond the actual cost of the photocopying;
 6. Make multiple copies of protectable material without permission more than nine times for any course in any one term;
 7. Copy more than one short work or two excerpts from works of the same author in any one term; or
 8. Copy protected material for classroom use without including a notice of copyright.
- B. Copies of computer software shall be governed by the licensing agreement issued by the producer at the time of purchase.
- C. District staff shall not reproduce or use copyrighted material under the Guidelines at the direction of someone in higher authority.
- D. District staff shall not reproduce or utilize any copyrighted materials outside of what is permitted under the Guidelines without prior approval by the District designated Copyright Compliance Officer, unless written permission is obtained from the copyright owner.
- E. Limitations on Public Display and Performance of Commercial Films
1. Purchasing videos and other audiovisual material does not give the purchaser the right to publicly display or performance of such material. This includes showing a video or DVD in a classroom or school setting.
 2. Section 110 of the Copyright Law provides an exemption for certain public displays and performances of audiovisual materials in connection with face-to-face instruction. However, for the use of copyrighted audiovisual material to fall under this exemption, it must meet **all** the following criteria:
 - a. The material must be used for face-to-face instruction;
 - b. It must be shown by students, teachers, or guest instructors;
 - c. It can only be shown to students or school staff;
 - d. The material must be shown or listened to in a place set aside for instruction;
 - e. The material cannot be from an illegal copy;
 - f. The showing of the material cannot be used to make a profit, either directly or indirectly; and
 - g. The showing must be for instructional purposes, not for entertainment purposes or as a reward
- E. Copyright Notices - Notices about copyright infringement shall be placed on each piece of equipment that could be used for copying. This includes, but is not limited to:
1. Photocopiers

2. Scanners
3. VCRs and DVRs
4. Computers
5. Document Cameras

Copyright notices are available from the North Thurston Public Schools technology help desk.

Attachment: Copyright and Fair Use Guidelines for Educators

Adopted:	June 16, 1986	North Thurston Public Schools
Revised:	August 28, 2006	North Thurston Public Schools Board of Directors