

INTELLECTUAL PROPERTY CY (REGULATION)

COMPLAINTS REGARDING COPYRIGHT COMPLIANCE

If a copyright or license owner reasonably believes that the District's technology has been used to infringe upon a copyright or license, the owner is encouraged to notify the District.

The District designates the following employee to receive any complaints about copyright infringement in online services:

Position: School Attorney

Address: 615 W. Missouri Ave., Midland TX 79701

Telephone: 432-240-1006

Fax: 432-689-1976

The Superintendent or designee will register this information with the federal Copyright Office, in accordance with federal requirements.

FAIR USE

The following guidelines are provided to assist in determining whether a potential use can be considered fair use by balancing all of the four factors below, prescribed in law, and the accompanying considerations:

1. Purpose and Character of Use:
 - a. Nonprofit, educational, or personal use— more likely to be considered fair use.
 - b. Criticism, commentary, news reporting, parody, otherwise “transformative” use – more likely to be considered fair use, particularly if new work significantly alters the original, appeals to a different audience, or is used for another purpose from the original.
 - c. Commercial use – more likely to not be considered fair use if new work is simply a duplication of the original.
2. Nature of the Copyrighted Work to be Used:
 - a. Fact, published – more likely to be considered fair use.
 - b. Mixture of fact and artistic expression – requires balance of considerations at item a above and item c below. For example, if the work contains more fact than artistic expression, then the balance tips in favor of the use being considered fair use. However, using the same example, if a significant amount of facts from the work was used and the work was unpublished, then the balance tips in favor of the use not being considered fair use.

- c. Artistic, unpublished – more likely to not be considered fair use if work consists of artistic expression. Unpublished works are not likely to be considered fair use; however, a copyrighted work that was published but is no longer in print is likely to be considered fair use.
3. Amount of Copyrighted Work to be Used:
- a. Small – more likely considered fair use, but must be balanced with preceding factors and considerations. Even if a small portion of the original work used, if that portion is the “heart” or “essence” of the original, then the use is less likely to be considered fair use.
 - b. More than a small amount – the more used, the less likely to be considered fair use. If the amount used exceeds reasonable expectation, or approximately 50 percent, then the use is more likely to not be considered fair use.
4. Effect of Use on the Potential Market for the Copyrighted Work:
- a. Competes with (takes sales away from) the original – more likely to not be considered fair use.
 - b. Avoids payment for permission (royalties) in established permissions market to use original – more likely to not be considered fair use.

TRADEMARKS

School-related or public use of District and campus trademarks will be in accordance with CY(LOCAL) and the guidelines on content described below. Use of District and campus trademarks will not:

LIMITATIONS ON CONTENT

1. Be obscene, vulgar, or otherwise inappropriate for the age and maturity of the audience.
2. Endorse actions endangering the health or safety of students.
3. Promote illegal use of drugs, alcohol, or other controlled substances.
4. Violate the intellectual property rights, privacy rights, or other rights of another person.
5. Contain defamatory statements about public figures or others.
6. Advocate imminent lawless or disruptive action likely to incite or produce such action.
7. Attack ethnic, religious, or racial groups.
8. Contain content aimed at creating hostility and violence.

Materially and substantially interfere with school activities or the rights of others.

APPROVED: JANUARY 2015

See the following pages for notices regarding copyrighted materials:

Exhibit A: Agreement on Guidelines for Classroom Copying in Not-for-Profit Educational Institutions — 3 pages

Exhibit B: Copyright Warning Notice — 1 page

EXHIBIT A

AGREEMENT ON GUIDELINES FOR CLASSROOM COPYING IN NOT-FOR-PROFIT EDUCATIONAL INSTITUTIONS

1. Single copying for teachers:

A single copy may be made of any of the following by or for a teacher at the teacher's individual request for use in scholarly research or 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, either from or not from a collective work.
- d. A chart, graph, diagram, drawing, cartoon, or picture 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 of the course for classroom use or discussion, provided that the copying:

- a. Meets the tests of brevity and spontaneity as defined below;
- b. Meets the cumulative effect test as defined below; and
- c. Each copy includes a notice of copyright.

[For information regarding prohibitions on items 1 and 2 above, see CY(LEGAL).]

DEFINITIONS

Brevity:

1. Poetry:

- a. A complete poem if less than 250 words and if printed on not more 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 or ten percent of the work, whichever is less, but in any event a minimum of 500 words.

[Each of the numerical limits stated in items 1 and 2 above may be expanded to permit the completion of an unfinished line of a poem or of an unfinished prose paragraph.]

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" that fall short of 2,500 words in their entirety that often combine language with illustrations and that are intended sometimes for children and at other times for a more general audience.

Item number 4 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 ten percent of the words found in the text thereof may be reproduced.

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.

Cumulative Effect:

1. The copying of the material is for only one course in the school in which the copies are made.
2. Not more than one short poem, article, story, essay, or two excerpts may be copied from the same author nor more than three from the same collective work or periodical volume during one class term.
3. There will not be more than nine instances of such multiple copying for one course during one class term.

(The limitations stated in items 2 and 3 above will not apply to current news periodicals and newspapers and current news sections of other periodicals.)

GUIDELINES FOR EDUCATIONAL USES OF MUSIC

Permissible uses:

1. Emergency copying to replace purchased copies that for any reason are not available for an imminent performance, provided purchased replacement copies will be substituted in due course.
2. Multiple copies:
 - For academic purposes other than a performance, multiple copies of excerpts of works may be made, provided that the excerpts do not comprise a part of the whole that would constitute a performable unit such as a section, movement, or

aria, but in no case more than ten percent of the whole work. The number of copies will not exceed one copy per student.

Single copies:

For academic purposes other than a performance, a single copy of an entire performable unit (section, movement, aria, and the like) that is:

- Confirmed by the copyright proprietor to be out of print, or
- Unavailable except in a larger work, which 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.

3. Printed copies that have been purchased may be edited or simplified provided that the fundamental character of the work is not distorted or the lyrics, if any, are not altered or added if none exist.
4. A single copy of recordings of performances by students may be made for evaluation or rehearsal purposes and may be retained by the educational institution or individual teacher.
5. A single copy of a sound recording (such as a tape, disc, or cassette) of copyrighted music may be made from sound recordings 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 that may exist in the sound recording.)

[For information regarding prohibitions on the use of music, see CY(LLEGAL).]

17 U.S.C. 107 historical note

INTELLECTUAL PROPERTY
CY (EXHIBIT)

EXHIBIT B

COPYRIGHT WARNING NOTICE

The copyright law of the United States (Title 17, United States Code) governs the making of photocopies or other reproductions of copyrighted material. The person using this equipment is liable for any infringement. _____Midland ISD_____ does not authorize the use of this machine for the reproduction of copyrighted works.

Under certain conditions specified in the law, libraries and archives are authorized to furnish a photocopy or reproduction. One of these specified conditions is that the photocopy or reproduction is not to be "used for any purpose other than private study, scholarship, or research." If a user makes a request for, or later uses, a photocopy or reproduction in excess of "fair use," that user may be liable for copyright infringement.

For more information regarding "fair use," see policy CY(LEGAL) and the accompanying CY(REGULATION).

For more information regarding federal copyright laws, contact the United States Copyright Office at (202) 707-5959.