

# I-22: Administrative Procedures

## Use of Copyrighted Materials



---

### REFERENCES

[Board Policy I-22](#)

[17 U.S.C. §101-805, 1001-1205, U. S. Copyright Act](#)

---

### DEFINITIONS

**Copyright Notice:** Includes the ©, year of first publication, and the name of the copyright holder, e.g., Copyright ©1997 by SLCS.

**Copyrighted Materials:** Any material protected by federal copyright laws

---

### PROCEDURES FOR IMPLEMENTATION

#### I. General Responsibilities

- A. District employees and students are to adhere to all provisions of the U.S. Copyright Act, and other relevant federal legislation and guidelines related to the duplication, retention, and use of copyrighted materials. District employees will take an active role in assuring compliance with all such laws and guidelines.
- B. School-based personnel will be required to complete on-line training on this subject on an annual basis.
- C. Unlawful copies of copyrighted materials may not be produced on district-owned equipment.
- D. Unlawful copies of copyrighted material may not be used with district-owned equipment, within district facilities, or at district-sponsored functions.
  1. District employees are responsible for following all laws, policies, and guidelines, and for obtaining copyright information and guidance from the school administrator and/or designee. Employees who make copies and/or use copyrighted materials in their jobs are expected to be familiar with published provisions regarding fair use and public display and are further expected to be able to provide their supervisor, upon request, the justification for the use of copyrighted materials.
  2. Employees who use copyrighted materials that do not fall within the fair use or public display guidelines must obtain permission from the copyright holder to reproduce it for educational purposes.
    - a. Each district employee will maintain records of permission to duplicate copyrighted material.
  3. Copies of site licenses, network licenses, and other permission to copy computer software will be maintained by the district IT department.
  4. The legal and insurance protection of the district will not be extended to employees who intentionally and unlawfully copy and use copyrighted materials.
- E. Employees who intentionally violate the law, board policy, or these procedures, will be subject to discipline and/or prosecution. The use of appropriate media through the acquisition of "Public Performance Rights" may be suitable as a school activity. The school administrator is responsible for applying for, legally obtaining, and properly licensing the "Public Performance Rights."
- F. All copied material must include a copyright notice.

#### II. Fair Use Guidelines - General

- A. Rules of thumb for fair use copying are:
  1. Ensure the copy is for a nonprofit educational purpose.
  2. Consider the nature of the work.
    - a. The more creative and less factual a work, the more it is protected by copyright law. For creative works, generally only small portions should be copied unless permission has been acquired, whereas greater portions of purely factual items may be copied under fair use.
  3. Copy only a limited portion of the work. Generally, fair use does not allow whole works to be copied, and the portion of the work being copied should be appropriate to the need.
- B. Fair use guidelines strongly advise obtaining permission from copyright owners whenever possible.
- C. Fair use applies only to teacher or student-created items for instructional or educational purposes. For fair use to apply, the copied work must be used for instructional purposes and not for personal use.

#### III. Fair Use Guidelines – Printed Materials

- A. Permissible uses:
  1. Single copies for teachers. For the purposes of research, teaching, or preparing to teach a class, educators may reproduce single copies of a book chapter; periodical/newspaper article; short story, short essay or short poem; or a chart, graph, diagram, drawing, cartoon, or picture from a book, periodical, or newspaper.

2. Multiple copies for classroom use. Educators may make multiple copies, i.e., one copy per student in a class, for classroom use if the copying meets the following three tests, and the source and copyright date are cited on each copy:
  - a. Brevity test
    - i. For poetry, a maximum of 250 words can be copied. This may be a complete poem if printed on not more than two pages, or an excerpt from a longer poem.
    - ii. A story, essay, or article under 2,500 words can be copied completely. For longer works, educators can copy excerpts of not more than 1000 words or 10% of the work, whichever is less, but may always be a minimum of 500 words.

Each of the numerical limits stated in subparts i. and ii. above may be expanded to permit the completion of an unfinished line of a poem or an unfinished prose paragraph.
    - iii. Illustrated works may not be reproduced in their entirety, even if less than 2,500 words. Teachers may make copies of an excerpt comprising not more than two of the published pages and containing not more than 10% of the words found in the text.
  - b. Spontaneity test
    - i. The decision to use the work must occur at the instance and inspiration of the educator.
    - ii. The decision to use the work and the moment of its use must be so close in time that it would be impossible to request and gain permission to use the work.
  - c. Cumulative effect test
    - i. Requires that the copying of the material is for only one course in the school.
    - ii. Allows not more than one short poem, article, story, essay, or two excerpts to be copied from the same author; and not more than three from the same collective work or periodical volume during one class term.
    - iii. Allows only a total of nine instances of such multiple copying that may be done during a class term.

The limitations in subparts ii. and iii. above shall not apply to current news periodicals and newspapers and current news sections of other periodicals.

B. Prohibited uses:

1. Copying shall not be used to create, to replace, or as a substitute for anthologies, compilations, or collective works. This prohibition applies regardless of whether copies of various works or excerpts therefrom are accumulated or reproduced and used separately.
2. There shall be no copying of or from works intended to be consumable in the course of study or teaching unless specific permission has been granted by the publisher. Examples of consumable works include workbooks, exercises, standardized tests, test booklets, and answer sheets.
3. Copying shall not be a substitute for the purchase of books, publishers' reprints, or periodicals.
4. Copying shall not be repeated with respect to the same item by the same teacher from term to term.

**IV. Fair Use Guidelines – Audio/Visual Materials**

A. Permissible uses:

1. Copying audio or visual materials from the Internet in digitized form for use in instruction is subject to the same general guidelines that regulate the use of print materials.
2. Any visual material that is reproduced on slides or transparencies in order for it to be shown to students as part of face-to-face instruction is permissible only if it meets the spontaneity and brevity tests.
3. Videotapes and DVDs may be used in the classroom if the following criteria are met:
  - a. they must be shown as part of the instructional program;
  - b. they must be shown by students, teachers, or guest presenters;
  - c. they must be shown in a classroom or other school location devoted to instruction;
  - d. they must be shown in a face-to-face setting;
  - e. they must be shown only to students and teachers; and
  - f. they must be shown using a lawfully obtained copy.

B. Prohibited uses:

1. Commercially produced recordings may not be altered from their original format.
2. Transparencies, slides, or any other copies of artwork, illustrations, graphics, or other visual materials may not be used from semester to semester or repeatedly in the same course without obtaining permission of the copyright holder.
3. Videos and DVDs, even in a face-to-face classroom setting, may not be used for entertainment or recreation; there must be a direct relationship between the videotape/DVD and the course.

**V. Fair Use Guidelines – Music**

- A. Permissible uses:
1. Emergency copying to replace purchased copies which for any reason are not available for the imminent performance provided purchased replacement copies shall be substituted in due course.
  2. For academic purposes other than performance:
    - a. Multiple copies of excerpts of works may be made, provided that the excerpts do not comprise 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.
    - b. Single copy of an entire performable unit that is:
      - i. confirmed by the copyright proprietor to be out of print; or
      - ii. unavailable except in a larger work; and
      - iii. made by a teacher solely for the purpose of his or her scholarly research or in preparation to teach a class.
  3. Purchased sheet music may be edited or simplified provided the character of the work is not distorted, or lyrics altered or added if none existed.
  4. A single copy of a recorded performance by students may be made and retained by the school or individual teacher for evaluation or rehearsal purposes.
  5. A single copy of a recording of copyrighted music owned by the school or a teacher may be made for the purpose of constructing aural exercises or examinations and may be retained by the school or teacher.
- B. Prohibited uses:
1. Copying shall not be used to create, to replace, or as a substitute for anthologies, compilations, or collective works.
  2. There shall be no copying of or from works intended to be consumable in the course of study or teaching.
  3. Copying shall not be a substitute for the purchase of music, except as outlined in Sections A.1. and 2. above.
  4. Copying without inclusion of the copyright notice which appears on the printed copy.
  5. Copying for purposes of performance, except as stated in Section A.4. above.

**VI. Fair Use Guidelines – Multimedia Presentations**

- A. Permissible use for students:
1. Students may incorporate portions of lawfully acquired copyrighted works when producing their own educational multimedia projects for a specific course.
  2. Students may perform and display these projects in the course for which they were created.
  3. Students' multimedia projects may be retained indefinitely in their portfolios as examples of their academic work.
- B. Permissible use for teachers:
1. Teachers may incorporate portions of lawfully acquired copyrighted works into multimedia programs they create to support their curriculum-based instructional activities.
  2. Teachers may perform or display these programs to students in face-to-face instruction or as an assigned, directed self-study.
  3. Teachers may retain projects indefinitely in their personal portfolios.
  4. Teachers may use their multimedia projects for instructional use for a period of up to two years after the first instructional use with a class. After that, permission must be obtained for each copyrighted portion included in the program.
- C. Portion, copying, and distribution limitations on multimedia
1. Portion limitations
    - a. Motion media: 10% or three minutes, whichever is less.
    - b. Text material: 10% or 1000 words, whichever is less; an entire poem of less than 250 words, but no more than three poems by one poet or five poems by different poets from any anthology; for longer poems, 250 words may be used, but only three excerpts by a poet or five excerpts by different poets from a single anthology.
    - c. Music, lyrics, and music video: up to 10%, but no more than 30 seconds from an individual musical work or the total extracts from an individual work; any alterations to the musical work should not change the basic melody or the fundamental character of the work.
    - d. Illustrations and photographs: no more than five images by an artist or photographer; when from a published collective work, not more than 10% or 15 images, whichever is less.
    - e. Numerical data sets: 10% or 2500 fields or cell entries, whichever is less, from a copyrighted database or data table.

2. Copying and distribution limitations
  - a. Teachers may make no more than two copies of their multimedia programs, only one of which may be placed on reserve in the school. An archival copy may be made, but only used or copied to replace a lost, stolen, or damaged copy.
  - b. Permission must be granted if teachers or students want to commercially reproduce and distribute their project(s), or if the projects will be used over electronic networks.
- D. Both students and teachers must have a citation page that includes the source for the material and the images used in the presentation.

#### **VII. Guidelines for Electronic Publishing and Use of Internet Resources**

- A. The same copyright protections exist for the author of a work regardless of whether the work is in print, in a library research database, a blog, an online discussion board or comment space, or any social media format.
- B. The Internet IS NOT the public domain. There are both copyrighted and non-copyrighted materials online.
- C. Always assume a work online is copyrighted.
- D. Always credit the source of your information. If you do not see an individual named as the author, the author may be the organization responsible for the website, so credit the organization.
- E. Follow the policy of any Internet site that has published its copyright policy.
- F. You can link to another site without permission, however as a professional courtesy, let the webmaster know.
- G. Copying textual and graphic information from periodicals, encyclopedias, and other online databases is permissible if fair use guidelines are followed.
- H. Purchasing clip art for use by the purchaser and using original or public domain graphics is permissible.
- I. For materials published under Creative Commons licensing, follow the use specifications associated with the license, including proper attribution, non-commercial use, and any other applicable restrictions, and ensure that appropriate source citations are included.

#### **VIII. Computer Software**

- A. Computer software should always be purchased or licensed.
- B. Using illegally copied software in schools or offices and using school equipment to copy software illegally is prohibited.
- C. Reproducing or decompiling of copyrighted computer games or code or control mechanisms of same, even for educational use is prohibited.