

## USE OF COPYRIGHTED MATERIALS

### I. Policy

It is the policy of the Waterville Central School District (the District) to follow the United States Copyright Law of 1976, as amended. Any use of computer or duplicating facilities by employees or students for infringing use of copyrighted materials is subject to appropriate disciplinary action as well as those civil remedies and criminal penalties that may be provided under federal law.

### II. Copyrighted Materials

Only copyrighted materials are subject to the restrictions of this policy. Uncopyrighted materials may be copied freely and without restriction. As a copyright notice is not required for copyright protection of works published on or after March 1, 1989, most works (except those authored by the US Government) should be presumed to be copyright-protected, unless further information from the copyright holder or express notice reveals that the copyright holder intends the work to be in the public domain. Works published prior to March 1, 1989 generally require a copyright notice in order to be protected.

### III. Computer Software

Copyrighted software may be copied without the copyright owner's permission only in accordance with the Copyright Act. Section 117 of the act permits making an archival back-up copy. Most software, however, is licensed to the user and the terms of the license agreement may give the user permission to make copies of the software in excess of the archival copy permitted by the Copyright Act. Each software license agreement is unique. As a result, the user's right to copy licensed software beyond that permitted under the Copyright Act may only be determined by reading the user's license agreement. Any copying or reproduction of copyrighted software on District or system computing equipment must be in accordance with the Copyright Act and the pertinent software license agreement. Further, employees and students may not use unauthorized copies of software on District or system computers or networks.

### IV. Fair Use

A. The "fair use" doctrine provides for limited use of copyrighted materials without the copyright owner's permission for such purposes as teaching, scholarship or research as well as criticism, comment, news reporting and parody.

USE OF COPYRIGHTED MATERIALS

B. “Fair use” is not a blanket exception and each use must be analyzed by applying the four standards to the desired use:

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.

Use of a work that is factual in nature weighs toward a finding of fair use. Use of imaginative works is more likely to require permission.

3. The amount and substantiality of the portion used.

Using only a small portion of a copyrighted material tips toward fair use, while using large portions indicates a need for permission.

4. The effect of the use upon the potential market for or value of the copyrighted work.

Where a work is available for purchase or license from the copyright owner, copying all or a significant portion of the work (in lieu of purchasing or licensing a sufficient number of “authorized” copies) would likely be unfair.

C. Even if a copyright infringement occurs, a court may refuse to award damages if the infringer reasonably believed that the use was fair. Regulation 5302.1 establishes general guidelines for applying the four factors, adapted from the Conference on Fair Use (CONFU) guidelines.

V. Permitted Performances and Displays/Teaching

Copyright law also provides educators with a separate set of rights in addition to “fair use”, to display (show) and perform (show or play) others’ works in the classroom.

1. An educator may show or perform any work related to the curriculum, regardless of medium face-to-face in the classroom.

2. The Technology, Education and Copyright Harmonization Act (TEACH Act) provides for the use of non-dramatic literary works in distance learning courses.

USE OF COPYRIGHTED MATERIALS

## VI. Off-air Recording

Specific guidelines have been established for the off-air recording of broadcast programming for educational purposes.

1. Such videotaping must generally be by teacher request and the use of such videotape shall be limited within the first ten (10) days of the broadcast.
2. Additional use of the videotape shall be permitted for reinforcement and/or evaluation.
3. The videotape should be erased within forty-five (45) days of the broadcast.

## VII. Library Copyright Exemption

The Copyright Act establishes certain exemptions for libraries and archives to reproduce copyrighted works.

## VIII. Obtaining Permission to Use Copyrighted Material

- A. In the event that a material is copyrighted and the use would exceed that permitted by any exception, license or “fair use”, it is likely that such use would be unfair and permission should be obtained from the copyright owner.
- B. Before forwarding a request for permission, check with the appropriate library to see if there is a blanket permission covering the material to be used.
- C. A request to use copyrighted material should be sent to the permission department of the publisher of the work. Permission requests should include:
  1. Title, author/editor and edition
  2. Exact material to be used
  3. Number of copies to be made
  4. Intended use of material e.g. educational
  5. Form of distribution e.g. hard copy, posted on Internet
  6. Whether material is to be sold e.g. as part of a course pack
- D. Written permission should be obtained and kept by the department or individual receiving permission. If oral permission only is obtained, a written record should be kept of the oral permission.

## POLICY

SUPPORT OPERATIONS

5302

### USE OF COPYRIGHTED MATERIALS

#### IX. Works Made for Hire

The District is the holder of the copyright for works made for hire (materials prepared by an employee within the scope of their employment, including instructional texts, tests, answer sheets, etc., and materials specifically commissioned). The District shall be considered the author unless there is an agreement that the employee will own the copyright. Any material created during school hours and/or on school machinery, shall be the property of the District, which will own the copyright. When a work is specially commissioned and the author is not an employee of the District, there should be a written agreement providing that the commissioned work shall be considered a "work for hire," and that the District shall be considered the author for copyright purposes.

#### X. Notice

The District shall post a notice reflecting this policy at all computer and photocopying stations that may be used for reproducing copyrighted materials e.g. copying rooms and at or near computer stations.

---

Waterville Central School District

Legal Ref: Title 17, United States Code

Adopted: 06/10/97

Revised: 05/26/15, 11/12/24