

USING COPYRIGHTED MATERIAL (REGULATION)

In accordance with the policy of the board of education, the following regulation shall govern the use of copyrighted material by employees of this school district.

Employees are urged to follow these guidelines and to instruct students in the importance of observing copyright provisions.

Television/Video and Audio

1. Off-air recordings of broadcast programs available to the general public without charge may be used **once** to meet instructional objectives in a classroom and repeated **once** for reinforcement during a 10-day period following the broadcast.

If you are seeking written permission from the copyright owner to keep and use the program in teaching/-learning activities, the recording may be retained an additional 35 days. If permission is not granted, the tape **must** be erased. Schools may not build library collections of off-air recordings without permission of copyright owners.

2. Programs recorded from pay television channels (HBO, Cinemax, Disney, etc.) do not qualify under "fair use" guidelines and may **not** be recorded or used in the classroom.
3. Teachers must file formal requests for off-air taping as principals and library media specialists may not make such requests on their behalf.
4. Off-air recordings of broadcast programs may be taped only once for or by a teacher, regardless of the number of rebroadcasts in the same or succeeding years.
5. Off-air recordings must meet the tests of spontaneity:
 - A. The copying is at the instance and inspiration of the individual teacher, and
 - B. 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.
6. A videotape marked "For Home Use Only" may be used in school only in a regular instructional situation by a classroom teacher in a face-to-face setting to meet an instructional objective. It may **not** be used for entertainment, filler, or any other purpose without prior permission of the copyright owner. Face-to-face teaching exemptions apply if **all** of the following requirements are met:
 - A. Performance must be given by an instructor or student;
 - B. Performance must take place at a non-profit educational institution;
 - C. Performance must be part of a regular instructional activity limited to when instructor and students are in a face-to-face situation;

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- D. Performance takes place in a classroom or in a similar place devoted to instruction;
- E. Performance must utilize a lawfully-made copy.
- 7. Audio and video tapes on preview must **not** be copied and must be returned or purchased after a reasonable evaluation period.
- 8. Audio and video tapes may not be borrowed from other school districts and used in the classroom.
- 9. It is not legal to make a “shelf” or archival copy of any audio/visual material or duplicate any material on another format without written permission from the copyright owner.

Computer Software

1. All software purchased by the district for classroom, lab, media center, and office use remains the property of the district and may be used only in school-sponsored programs and activities. No employee or student may make a personal copy of any district-owned software.
2. Illegal copies of copyrighted software programs may **not** be made or used on school equipment.
3. Legal copies of copyrighted software programs must observe software licensing agreements of copyright holders and must be obtained and made by the Bethel Public Schools' authorized representative(s).
4. One archival, or backup, copy of copyrighted software purchased by or donated to the office may be made, unless an applicable licensing agreement prohibits copying for any purpose.
5. Multiple loading of software is prohibited unless written permission has been obtained or unless the software is advertised as multi-load.
6. Use of software on a networked computer system is prohibited unless written permission is obtained or unless the networked version is used. Instructional software must be approved by the district software curriculum committee and administrative software must be approved by the director of data processing.
7. Installation of public domain software is **prohibited** on any district computer.
8. Computer software developed by Bethel Public Schools employees and students on equipment owned by the district and/or during the school day is the sole property of the district. Distribution of such software by the individual without written permission of the district is strictly prohibited.
9. Software on preview must not be copied and must be returned or purchased after a reasonable evaluation period.
10. The superintendent or designee may sign district duplication rights agreements or licenses for software for schools within the district.

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11. Employees of the district shall not encourage or allow any student to surreptitiously or illegally duplicate computer software or access any database or electronic bulletin board.
12. The data processing department is solely responsible for the duplication of all computer software licensed for district-wide use.
13. The legal, ethical, and practical problems caused by software piracy will be taught in all schools in the district.
14. A teacher or student may download to the printer bibliographic citations or full text of a document identified during a search of DIALOG, Wilsonline, etc., as the terms of the school's contract with the vendors specify. It is assumed that the user will require no more than 20-30 citations, will be using a legitimate password or subscription for invoice purposes, and has local approval to order, receive, and provide payment for a full-text document or citations.
15. Without the express consent of a database vendor, a teacher or student may not keep archival copies of downloaded works or make commercially available the downloaded material.

Print/Graphics

No charge shall be made to the student beyond the actual cost of the photocopying.

1. Prohibited copying
 - A. The reproduction of copyrighted, **consumable** materials such as workbooks, exercises, activity sheets, standardized tests and test booklets, answer sheets, and other such materials is specifically prohibited by the copyright law. Once the ditto ink is depleted from a purchased ditto master, no further copies are to be made.
 - B. Copying shall not
 1. Substitute for the purchase of books, publishers' updates or reprints, or periodicals;
 2. Be directed by higher authority.
 - C. Copyrighted comic strip or cartoon characters may not be reproduced or altered for use on bulletin boards, hallways, cafeteria walls, publications, or school uniform/clothing.
 - D. Copying of the same item may not be repeated from term to term (school semester or school year).
2. Permissible copying
 - A. A single copy may be made of any of the following by or for a teacher for scholarly research, teaching, or preparation to teach a class:
 1. A chapter from a book;

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2. An article from a periodical or newspaper;
 3. A short story, short essay, or short poem;
 4. A chart, graph, diagram, drawing, cartoon or picture from a book, periodical, or newspaper.
- B. One transparency for classroom instruction may be made from **consumable** materials such as workbooks, exercises, activity sheets, and other such materials.
- C. Multiple copies of **nonconsumable** materials for classroom use or discussion may be made by or for the teacher giving the course, provided that
1. The copying meets the tests of brevity, spontaneity, and cumulative effect as defined below;
 2. Each copy includes a notice of copyright; and
 3. No more than one copy per pupil in a course is made.

Definitions

1. Brevity
 - A. Poetry: (1) a complete poem of less than 250 words and if printed on not more than two pages, or (2) from a longer poem, an excerpt of not more than 250 words. (Copying may be expanded to permit completion of a stanza.)
 - B. Prose: (1) either a complete article, story, or essay of less than 2,500 words, or (2) an excerpt from any prose work of not more than 1,000 words or 10% of the work, whichever is less, but in any event a minimum of 500 words. (Copying may be expanded to permit completion of an unfinished paragraph.)
 - C. Illustration: one chart, graph, diagram, drawing, cartoon, or picture per book or per periodical issue.
 - D. "Special" works (picture books and certain works in poetry and prose that combine language with illustrations and which are less than 2,500 words in their entirety): such "special" works may not be reproduced in their entirety; however, two of the published pages of such a special work may be reproduced.
2. Spontaneity
 - A. The copying is at the request and inspiration of the individual teacher, and
 - B. 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.

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3. Cumulative Effect
 - A. The copying of the material is for only one course in the school in which the copies are made.
 - B. 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 (with the exclusion of current news periodicals, newspapers, and current news sections of other periodicals.)
 - C. No more than nine instances of such multiple copying shall be made for one course during one class term (with the exclusion of current news periodicals, newspapers, and current news sections of other periodicals.)

Facsimile Sharing of Prints and Graphics

1. Copyrighted material may be faxed to any person making a legal request.
2. After making a copy of a work and then faxing that copy, it must be destroyed. This complies with the regulation that only one copy of the original work may be in existence.
3. Any faxed material received can be used as resource/research sharing, but not as resource building. No additional copies of the received material may be made.
4. Received faxed material may not substitute for purchasing books or subscriptions.

Music/Theatre

Royalties must be paid, as specified by the publisher, for the public performance of copyrighted plays or music.

1. Permissible copying
 - A. Sheet music or plays may be copied only if a purchase order for the materials has been issued but the materials have not yet been received. Once the purchase materials are received, all other copies must be destroyed.
 - B. For academic purpose other than performance, **multiple copies** of excerpts of works may be made provided that
 1. Excerpts are not a performable unit (a section, movement, or aria) or more than 10% of the whole work;
 2. No more than one copy per pupil in the class is made; and
 3. The copyright notice appears on the printed copy.

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- C. For academic purposes other than performance, a **single copy** of an entire performable unit (a section, movement, or aria) may be made for the teacher for scholarly research or in preparation to teach a class provided that
1. The work is confirmed by the copyright holder to be out of print;
 2. The work is unavailable except in a larger work; and
 3. The copyright notice appears on the printed copy.
- D. 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, altered or lyrics added, if none exist.
- E. 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 teachers.
- F. A single copy of a sound recording (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.**)
- G. Copyrighted music recordings may be used as background for a media presentation only if the presentation is required for instructional purposes, and not for entertainment.
2. Prohibited copying
- A. Copyrighted music recordings may not be reproduced from album to tape.
 - B. Music or plays may not be recorded from a broadcast.
 - C. Copying for the purpose of performance may not be done.

Internet

1. The rights of the owner of copyrighted material on the Internet are exactly the same as the rights for the owner of traditional materials.
2. The rights of the copyright holder include:
 - A. The sole right to make copies;
 - B. The sole right to distribute copies;

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- C. The sole right to produce derivative copies;
 - D. The sole right to perform or display a work publicly.
3. All the criteria for “fair use” apply to works on the Internet just as they apply to other materials.

Digital Transmission (Distance Education)

The Technology, Education, and Copyright Harmonization Act of 2001 (the TEACH Act) provides that it is not copyright infringement for teachers and students in an accredited, nonprofit educational institution to transmit performances and displays of copyrighted works as part of a course if certain conditions are met. If these conditions are not or cannot be met, use of the material will have to qualify as a fair use or permission from the copyright holder(s) must be obtained.

1. Teachers who want to incorporate works into digital transmission for instructional purposes must:
- A. Avoid the use of commercial works that are sold or licensed for purposes of digital distance education.
 - B. Avoid the use of pirated works, or works where the teacher may otherwise have reason to know the copy was not lawfully made.
 - C. Generally limit the use of works to an amount and duration comparable to what would be displayed or performed in a live physical classroom setting.
 - D. **Supervise** the digital performance or display, make it an integral part of a class session, and make it part of a **systematic mediated instructional activity**. In other words, teachers should interactively use the copyrighted work as part of a class assignment in the distance education course. It should be made by, at the direction of, or under the supervision of the instructor; and directly related and of material assistance to the teaching content. It should not be an entertainment add-on or passive background/optional reading.
 - E. Use software tools provided by the district to limit access to the works to students enrolled in the course, to prevent downstream copying by those students, and to prevent the students from retaining the works for longer than a class session. The performance or display must be for, and technologically limited to, the students enrolled in the class.
 - F. Notify the students that the works may be subject to copyright protection and that they may not violate the legal rights of the copyright holder(s). A sample notice might read:

The materials on this course Web site are only for the use of students enrolled in this course for purposes associated with this course and may not be retained or further disseminated.

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2. The TEACH Act permits the transmission of the following:
 - A. Performances of **all** of a nondramatic literary or musical work. Nondramatic literary works, as defined in the Act, exclude audiovisual works; thus, examples of permitted performances in which entire works may be displayed and performed might include a poetry or short story reading. Nondramatic musical works would include all music other than opera, music videos (because they are audiovisual), and musicals.
 - B. **Reasonable and limited portions** of any other performance. This would include all audiovisual works such as films and videos of all types, and any dramatic musical works excluded above.
 - C. Displays of any work in **amounts comparable to typical face-to-face displays**. This would include still images of all kinds.

Excluded from coverage are the use of works primarily produced or marketed for in-class use in the digital distance education market; works the instructor knows or has reason to believe were not lawfully made or acquired; and textbooks, coursepacks, and other materials typically purchased by students individually.

4. Conversion from Analog to Digital

The TEACH Act specifically authorizes the digitization of print or other works in analog format under the following conditions:

- A. Only the amounts authorized to be performed or displayed may be digitized; and
- B. There is no digital version available to the district; or
- C. The digital version that is available to the district is technologically protected in a manner that prevents its use for authorized purposes.
- D. Such copies are retained only by the district and used only for the activities authorized by copyright law.

Permission for Use

Employees are encouraged to seek written permission for use of copyrighted materials which have instructional value but which cannot be purchased because of lack of funds or availability. A request for permission should include:

- Specific description of the item to be copied (title, author, edition, page numbers, frames, excerpts, etc.);
- Type of duplication and number of copies;
- Plans for usage and distribution of copies and the frequency of use.