

Instruction

Use of Copying Devices

Publication or Creation of Educational Materials -- Copyrights: Printing and Duplication

It is illegal for anyone to duplicate copyrighted materials without permission, except to the extent such duplication may fall within the bounds of the "fair use" doctrine.

The Board further recognizes that severe penalties are provided for unauthorized copying of audio, visual or printed materials unless the copying falls within the bounds of "fair use".

Any duplication of copyrighted materials by employees, therefore, must be done with permission of the copyright holder or within the bounds of "fair use" as set forth in the guidelines concerning use agreed upon by various representative groups of publishers, authors, composers, teachers and other affected parties.

Legal Reference: Public Law 94-553, The Copyright Act of 1976, 17 U.S.C. 101 et seq.

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The Copyright Law (Public Law 94-553) requires that all employees honor the following guidelines for classroom copying. Failure to do so could expose the employee and the school system to legal challenge.

Books and Periodicals

1. **Single Copying for Teachers:** A single copy may be made of any of the following by or for a teacher at his individual request for his scholarly research or use in 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, whether 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 for classroom use or discussion, provided that:
 - A. The copying meets the test of brevity and spontaneity as defined below.
 - B. The copying meets the cumulative effect test as defined below.
 - C. Each copy includes a notice of copyright.
3. **Definitions**
 - A. **Brevity**
 - (1) **Poetry:** A complete poem of less than 250 words, and if printed on not more than two pages, or from a longer poem, an excerpt of not more than 250 words.

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Books and Periodicals (continued)

- (2) **Prose:** Either a complete article, story or essay of less than 2,500 words, or an excerpt from any prose work or not more than 1,000 words or 10% of the work, whichever is less, but in any event a minimum of 500 words.

(Each of the above may be expanded to permit completion 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" which often combine language with illustrations and which are intended sometimes for children and at other times for more general audience and fall short of 2,500 words in their entirety. Subparagraph (2) 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 10% of the words found in the text thereof may be reproduced.

B. Spontaneity

- (1) The copying is at the instance and inspiration of the individual teacher.
- (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.

C. Cumulative Effect

- (1) The copying of the material is for only one course in the school in which 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.

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Books and Periodicals (continued)

- (3) There shall not be more than nine instances of such multiple copying for one course during one class term.

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

4. Prohibitions

Notwithstanding any of the above, the following shall be prohibited:

- A. Copying shall not be used to create or to replace or substitute for anthologies, compilations or collective works. Such replacement or substitution may occur whether copies of various works or excerpts therefrom are accumulated or reproduced and used separately.
- B. There shall be no copying of or from works intended to be "consumable" in the course of study or of teaching. These include workbooks, exercises, standardized tests and test booklets and answer sheets and similar consumable material.
- C. Copying shall not
- (1) substitute for the purchase of books, publishers' reprints or periodicals.
 - (2) be directed by higher authority.
 - (3) be repeated with respect to the same item by the same teacher from term to term.
- D. No charge shall be made to the student beyond the actual cost of the photocopying.

Educational Uses of Music

1. Permissible Uses

- A. Emergency copying to replace purchased copies which for any reason are not available for an imminent performance provided purchased replacement copies shall be substituted in due course.

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Educational Uses of Music (continued)

- B. For academic purposes other than performance, multiple copies of excerpts of works may be made, provided that the excerpts do not comprise a part of the whole which would constitute 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.

For academic purposes other than performance, a single copy of an entire performable unit (section, movement, aria, etc.) that is confirmed by the copyright proprietor to be out of print or unavailable except in a larger work 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.

- C. Printed copies which 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.
- D. 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.
- E. A single copy of a sound recording (such as a tape, disc or cassette) of copyrighted music may be made from sound recording 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 which may exist in the case of sound recording.)

2. Prohibitions

- A. Copying to create or replace or substitute for anthologies, compilations or collective works.
- B. Copying of or from works intended to be "consumable" in the course of study or of teaching such as workbooks, exercises, standardized tests and answer sheets and similar material.

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Educational Uses of Music (continued)

- C. Copying for the performance, except as in 1.A. above.
- D. Copying for the purpose of substituting for the purchase of music, except as in 1.A. and 1.B. above.
- E. Copying without inclusion of the copyright notice which appears on the printed copy.

Reproduction by Libraries

It is not a copyright infringement for a library, or any of its employees acting within the scope of their employment, to reproduce or distribute not more than one copy of a work, provided:

1. The reproduction or distribution is made without any purpose of direct or indirect commercial advantage.
2. The collections of the library or archives are open to the public or available not only to researchers affiliated with the library or archives, but also to other persons doing research in a specialized field.
3. The reproduction or distribution of the work includes a notice of copyright.

The reproduction of multiple copies of the same material, whether made on one occasion or over a period of time, and whether intended for aggregate use by one individual or for separate use by the individual members of a group, is not authorized.

Libraries are generally exempt from liability for the unsupervised use of reproducing equipment located on its premises, provided that the reproducing equipment displays a notice that the making of a copy may be subject to the copyright law.

Student Rerecordings

Video tape recorders may be used under the following conditions:

1. School rerecordings may be made only by students, teachers and faculty or staff members.

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Student Rerecordings (continued)

2. School rerecordings will be used solely for classroom, auditorium or laboratory exhibition in the course of classroom instruction or related educational activities.
3. School rerecordings will be used only in the educational institution for which made, and will not be given away, loaned, or otherwise made available outside the school.
4. School rerecordings will be used only during the seven-day period of local Educational Television TV and other educational broadcasts licensed by the distribution agency, and will be erased or destroyed immediately at the end of that seven-day period except to the extent specifically authorized in writing in advance by the distribution agency.

(This statement was prepared for public school adoption by the following agencies: Public Broadcasting Service; Great Plains Instructional Television Library; Agency for Instructional Television; Public Television Library.)

Legal Reference: Public Law 94-553, The Copyright Act of 1976, (17 U.S.C. subsection 101 et seq.)

House Report 94-1476, Congressional Record, September 11, 1976
(Copyright Law Revision)