

### SCHOOL DISTRICT COMPLIANCE WITH COPYRIGHT LAW REGULATION

The Board of Education recognizes that the Doctrine of Fair Use covers copyrighted materials used for educational purposes. The fair use of a copyrighted work, including such use by reproduction in copies or by any other means specified by the section, for purposes such as criticism, comment, teaching (including multiple copies for classroom use), scholarship, or research is not an infringement of copyright. If an activity is authorized under fair use, a school may carry out the activity without requesting permission from the holder of the copyright.

Four private guideline agreements exist in conjunction with fair use between the education community and copyright proprietors. These guideline agreements include:

1. photocopying of printed materials;
2. photocopying of music;
3. inter-library arrangements for photocopying; and
4. off-air taping of television programs.

The guidelines can be found in H.R. Rep. No. 1476, 94th Cong., 2nd Sess.68,70(1976), H.R. Rep. No. 1733, 94th Cong., 2nd Sess.72(1976), and 127 Cong. Rec. E4751 (daily ed. October 14, 1982).

In determining whether the use made of a work in any particular case is a fair use, the factors to consider shall include:

1. the purpose and character of the use, including whether such use is of a commercial nature or is for non-profit educational purposes;
2. the nature of the copyrighted work;
3. the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and
4. the effect of the use upon the potential market for or value of the copyrighted work.

The Board shall appoint the Assistant Superintendent of Schools for Business to determine, on a case-by-case basis, if the use of a copyrighted material constitutes fair use. Special attention shall be given to matters regarding paid performers, promoters, and organizers of a non-dramatic literary or musical work.

Library use, photocopying of printed materials, copying of music, off-air taping of television programs, and computer software use by school employees shall be done in accordance within the fair use standards. However, computer software use is governed by additional provisions. Notwithstanding the other provisions, it is not an infringement for the owner of a copy of a computer program to make or authorize the making of another copy or adaptation of that computer program provided:

1. that such a new copy or adaptation is created as an essential step in the utilization of the computer program in conjunction with a machine and that it is used in no other manner; or
2. that such new copy or adaptation is for archival purposes only and that all archival copies are destroyed in the event that continued possession of the computer program should cease to be rightful.

Any exact copies prepared in accordance with the provisions may be leased, sold, or otherwise transferred, along with the copy from which such copies were prepared, only with the authorization of the copyright owner.

In accordance with fair use standards, additional copies of materials shall not be made which exceed the number required for classroom use. If a teacher believes more copies are needed, he/she shall petition, in writing, the Board- appointed official. The official shall set up a procedure to hear appeals when any such request is denied. Any willful violation of copyright law shall be subject to disciplinary action.

The district is the holder of the copyright for works made for hire (e.g., materials prepared by an employee within the scope of his or her 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. When the material is created during school hours and/or using school machinery, the district owns the copyright. When a work is specifically commissioned and the author is not an employee of the district, there shall be a written agreement providing, among other things, that the commissioned work shall be considered a "work made for hire," and that the district shall be considered the author for copyright purposes.

The district shall keep accurate records of all materials involving copyright laws. The Assistant Superintendent for Business shall report periodically to the Board and Superintendent.

Ref: 17 U.S.C. §§101; 106; 197; 201(b)