

COPYRIGHT COMPLIANCE

Code **EGAD-R** Issued **1/03**

The center will maintain detailed regulations governing the use of copyrighted materials in the library media center. It is the responsibility of the director to schedule an annual review of the copyright law at staff orientation. It is the responsibility of the library media specialist to keep the center staff informed on the use of copyrighted materials.

Fair use

In determining whether use of copyrighted materials without permission in any particular case is "fair use," the following factors are to be considered.

- the purpose and character of the use, including whether it is for nonprofit/public educational purpose(s)
- the nature of the copyrighted materials
- the amount and substantiality of the portion used as compared to the copyrighted materials as a whole
- the effect of the use on the potential market for, or value of, the copyrighted materials

Permission for reproduction

- Written permission from the copyright holder should always be obtained prior to the use of the material. Permission to copy must include this information.
 - title, author and/or editor, and edition of materials to be duplicated
 - exact material to be used giving amount, page numbers, chapters and, if possible, a photocopy of the material
 - number of copies to be made
 - use to be made of duplicated materials
 - form of distribution (classroom, newsletter, etc.)
 - whether or not the material is to be sold
 - type of reprint (ditto, photocopy, offset, typeset, etc.)
- If written permission for reproduction is not received, the copyrighted material may not be used.
- Credit the source of all copyrighted material by indicating the copyright symbol and year, © 19__, and the copyright owner's name on the materials. State "with permission" if permission for reproduction has been granted.

Guidelines for reproduction and use of copyrighted material in print

- Teachers may make or have made a single copy of the following for instructional uses.
 - a chapter from a book
 - an article from a newspaper or periodical

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- a short story, essay or short poem, whether or not from a collective work
- a chart, graph, diagram, drawing cartoon or picture from a book, periodical or newspaper
- Teachers may make multiple copies (not to exceed one per student) of the following for classroom use or discussion provided all of these requirements are met.
 - The copying meets the tests of brevity and spontaneity as defined below.
 - The copying meets the cumulative effect test as defined below.
 - Each copy includes a notice of copyright.

Brevity

- a complete poem of less than 250 words
- an excerpt of no more than 250 words from a longer poem
- a complete prose work if it is less than 2,500 words
- an excerpt of no more than 500 words from a prose work of between 2,500 and 5,000 words
- an excerpt of not more than 10 percent of a prose work of between 5,000 and 10,000 words
- an excerpt of not more than 1,000 words from a prose work which is greater than 10,000 words
- one illustration per book or periodical use
- not more than two pages and 10 percent of the words of "special works" which are poetic or prose works which combine illustrations and less than 2,500 words (such as many children's books)

NOTE: Numerical limits may be exceeded in order to complete a line of poetry or a paragraph of prose.

Spontaneity

- The copying must be at the instance and inspiration of the individual teacher.
- The inspiration and decision to use the work and the moment of its use for maximum teaching effectiveness are too close in time that it would be unreasonable to expect a timely reply to a request for permission.

Cumulative effect

- The copying of the material must be for only one course in the center in which copies are made.
- 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.
- Not more than nine instances of such multiple copying for one course may occur during one class term.

NOTE: The limitations stated in the last two items above will not apply to current news periodicals and newspapers and current news sections of other periodicals.

- Performances by teachers or students of copyrighted dramatic works without authorization from the copyright owner are permitted as part of a teaching activity in a classroom or instructional setting. All other performances require permission from the copyright owner.

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- Teachers may use copyrighted material in opaque projectors for instructional purposes.
- The right to change the chart, picture, cartoon or illustration into a poster, slide, transparency, video or wall graphic (also called the right of adaptation) rests with the copyright holder. Modification of the original does not protect the user from liability.

Guidelines for reproduction and use of copyrighted music

- Teachers may make a single copy of a song, movement or short section from a printed musical work that is unavailable except in a larger work for purposes of preparing for instruction.
- Teachers may make multiple copies for classroom use of an excerpt of not more than 10 percent of a printed musical work if it is to be used for academic purposes other than performance, provided that the excerpt does not comprise a part of the whole musical work which would constitute a performable unit such as a complete section, movement or song.
- In an emergency, teachers may make and use replacement copies of printed music for an imminent musical performance when the purchased copies have been lost, destroyed or are otherwise not available, provided purchased replacement copies will be substituted in due course.
- Teachers may make and retain a single recording of student performances of copyrighted material when it is made for purposes of evaluation or rehearsal.
- Teachers may make and retain a single copy of excerpts from recordings of copyrighted musical works for use as aural exercises or examination questions.
- Teachers may edit or simplify purchased copies of music provided that the fundamental character of the music is not distorted. Lyrics will not be altered or added if none exist.
- Performance by teachers or students of copyrighted musical works is permitted without the authorization of the copyright owner as part of a teaching activity in a classroom or instructional setting. The purpose will be instructional rather than for entertainment.
- Performances of non-dramatic musical works that are copyrighted are permitted without the authorization of the copyright owner under these conditions.
 - The performance is not for a commercial purpose.
 - None of the performers, promoters or organizers are compensated.
 - Admission fees are used for educational or charitable purposes only.

All other musical performances require permission from the copyright owner.

Guidelines for off-air recording

- Instructional television programs
 - Unlimited use designates a series that is leased or owned by the department of education. Programs in the series may be taped off-air and retained on tape for as long as the series is contained in the resources book.
 - Designated time period use designates a series that may be taped off-air and retained on tape for as long as that series airs on the school television schedule. Broadcast and record rights are negotiated periodically; school personnel are notified when the tapes are to be erased. The South Carolina State Department of Education Office of Instructional Technology prints in its resources catalog the specific rights for each series.

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The office of instructional technology has no copyright jurisdiction over programs not airing on the ITV schedule. It does, however, have jurisdiction over the use of state-owned equipment for airing these programs and has adopted the following policy concerning ITFS and center taping centers.

State owned and supplied equipment in these operations may only be used to record, transmit or broadcast state board of education approved resources (those contained each year in the ITV/R resources book or otherwise added during a year to the ITV schedule by the office of instructional technology.

- Non-school television programs
 - A broadcast may be recorded simultaneously with the broadcast transmission and retained for a period of 45 calendar days after the date of recording. Recordings must be erased or destroyed at the end of the 45 days.
 - Teachers may use broadcast recordings once in the course of relevant teaching activities, and repeat the use once for instructional reinforcement during the first ten consecutive school days within the 45-day retention period.
 - After the first 10 consecutive school days, recordings may only be used up to the end of the 45-day retention period for evaluation purposes by teachers. This evaluation is to be used to determine the likelihood of using programs in the series or in purchasing a copy of the program.
 - Broadcast recordings must be done only at the request of individual teachers. Recordings may not be made in anticipation of requests and no program may be recorded more than once at the request of the same teacher, regardless of the number of times the program is broadcast.
 - A limited number of copies may be reproduced from each recording to meet the needs of teachers under these guidelines. Each such copy will be subject to all provisions governing the original off-air recording.
 - The content of recordings may not be altered or merged, but recordings need not be used in their entirety.
 - All copies of off-air recordings must include the copyright notice on the broadcast program as recorded.
 - Off-air recording guidelines apply only to non-profit educational institutions.

Guidelines for reproduction and use of copyrighted audiovisual material

No type of audiovisual work may be copied in any form without permission from the copyright holder. However, a teacher may make a single copy of an entire recording or a portion thereof, but only for the purpose of constructing aural exercises or examinations. Such copies must be retained by the school and/or by the teacher, and may not be used in a performance.

Audiovisual/videos

The audiovisual section of the copyright provides a type of fair use exemption for schools. All of the following conditions must be met before a performance is considered exempt from public performance requirements.

- The performance must be presented by instructors of pupils.
- The performance must occur in the course of face-to-face teaching activities.
- The performance must take place in a classroom or similar place for instruction (including the library).

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- The performance must be of a legally acquired (or legally copied) copy of the work. (The presenter is protected from liability for illegal copies if the presenter is unaware that the copies were not legally acquired or made.)

The teacher must use videotapes in accordance with labels on audiovisual materials. Restrictions printed on videotapes are binding. Use is subject to licensing or other written permission.

Guidelines for reproduction and use of copyrighted materials in library

- A library may make a single copy of the following.
 - an unpublished work which is in its collection
 - a published work in order to replace it because it is damaged, deteriorated, lost or stolen, provided that an unused replacement cannot be obtained at a fair price.
- A library may provide a single copy of copyrighted material at no cost to a student or staff member. The copy must be limited to one article of a periodical issue or a small part of other material, unless the library finds that the copyrighted work cannot be obtained elsewhere at a fair price. In the latter circumstance, the entire work may be copied. In any case, the copy will contain the notice of copyright and the student or staff member will be notified that the copy is to be used only for private study, scholarship or research. Any other use may subject the person to liability for copyright infringement.
- At the request of a teacher, copies may be made for reserve use. The same limits apply as for single or multiple copies designated in the sections on material in print.

Guidelines for reproduction and use of microcomputer software

The owner of a copy of a computer program may make or authorize the making of another copy or adaptation of that computer program under these circumstances.

- A new copy or adaptation is created as an essential step in the utilization of the computer program in conjunction with a machine and it is used in no other manner.
- 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.

Copying limitations

Circumstances will arise when personnel are uncertain whether or not copying is prohibited. In those circumstances the superintendent (or designated copyright compliance officer) should be contacted. Nonetheless, the following prohibitions have been expressly stated in federal guidelines.

- Reproduction of copyrighted material will not be used to create or substitute for anthologies, compilations or collective works.
- Unless expressly permitted by agreement with the publisher and authorized by district action, there will be no copying from copyrighted consumable materials such as workbooks, exercises, test booklets, answer sheets and the like.

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- Personnel will not do the following.
 - Use copies to substitute for the purchase of books, periodicals, music recordings or other copyright material except as permitted by center procedure.
 - Copy or use the same item from term to term without the copyright owner's permission.
 - Copy or use more than nine instances of multiple copying of protected material in any one term.
 - Copy or use more than one short work or two excerpts from works of the same author in any one term.
 - Copy or use protected material without including a notice of copyright. The following is a satisfactory notice.

THIS MATERIAL MAY BE PROTECTED BY COPYRIGHT LAW.

- Personnel will not reproduce or use copyrighted material at the direction of someone in higher authority or copy or use such material in emulation of some other teacher's use of copyrighted material without permission of the copyright owner.

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