

COPYRIGHT GUIDELINES

In an effort to discourage violation of copyright laws and to prevent such illegal activities, Patrick County Schools will adhere to the following guidelines:

1. The ethical and practical problems involving copyright violations will be taught in the Patrick County School Division.
2. Division employees will be expected to adhere to copyright laws.
3. Illegal copies of copyrighted programs may not be made or used on school equipment.
4. The legal or insurance protection of the division will not be extended to employees who violate copyright laws.
5. The principal of each school site is responsible for establishing practices which will enforce this policy at the school level.

DEFINITION OF FAIR USE

Fair use is the right to use copyrighted materials in a responsible manner without consent of the author. This limitation permits teachers, librarians, researchers, scholars, and others to use copyrighted works without paying the copyright owner. Section 107, "Limitations on Exclusive Rights: Fair Use," states:

Notwithstanding the provisions of Section 106, Exclusive Rights in Copyrighted Works, the fair use of copyrighted work, including such use by reproduction in copies or phonorecords or by any other means specified by that section, for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research, is not an infringement of copyright.

In determining whether the use of a work in any particular case is a fair use the factors to be considered shall include:

1. the purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational use;
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.

PRINT MATERIALS, MUSIC, AND OFF-AIR RECORDINGS

A. Guidelines for Reproduction of Print Materials:

1. Single Copying for Teachers

A single copy may be made of any of the following by or for a teacher in his or her individual request for his or her 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 pupil in a course) may be made by or for the teacher giving the course for classroom use or discussion provided that:

- a. the copying meets the tests of brevity and spontaneity as defined below, and
- b. meets the cumulative effect test as defined below, and
- c. each copy includes a notice of copyright.

3. Definitions

a. Brevity

- (1) Poetry:
 - (a) A complete poem if less than 250 words and if printed on not more than two pages, or
 - (b) from a longer poem, an excerpt of not more than 250 words
- (2) Prose:
 - (a) Either a complete article, story or essay of less than 2500 words, or
 - (b) an excerpt from any prose work of not more than 1000 words or 10 percent of the work, whichever is less, but in any event a minimum of 500 words. (Each of the numerical limits stated in '1' and '2' above may be expanded to permit the completion of an unfinished line of a poem or 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 “poetic prose” which often combine language with illustrations and which are intended sometimes for children and at other times for a more general audience fall short of 2500 words in their entirety. Paragraph “b” 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 percent of the words found in the text thereof, may be reproduced.

b. Spontaneity

- (1) Copying is at the instance and inspiration of the individual teacher, and
- (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 materials is for only one course in the school in which the 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.
- (3) There shall not be more than nine instances of such multiple copying for one course during one class term. (The limitations stated above in '1' and '2' shall not apply to current new sections of other periodicals.)

d. Prohibitions

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

- (1) Copying shall not be used to create or so 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.
- (2) 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 like consumable material.
- (3) Copying shall not:
 - (a) substitute for the purchase of books, publishers' reprints or periodicals
 - (b) be directed by higher authority.
 - (c) be repeated with respect to the same item by the same teacher from term to term
- (4) No charge shall be made to the student beyond the actual cost of the photocopying.

B. Guidelines for Music.

1. Permissible Uses

- a. Teachers may make emergency copies to replace purchased copies which are not available for an imminent performance, provided purchased replacement copies are substituted in due course.
- b. For academic purposes other than performance, single or 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, a movement or an aria, but in no case more than 10 percent of the whole work. The number of copies shall not exceed one copy per pupil.
- 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 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 which may exist in the 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 like material.
- c. Copying for the purpose of performance, except as in 'a' above
- d. Copying for the purpose of substituting for the purchase of music, except as in 'a' and 'b' above
- e. Copying without inclusion of the copyright notice which appears on the printed copy.

C. Guidelines for Off-Air Television Recording

In accordance with the fair use doctrines, non-profit educational institutions may record television programs and use these recordings for instructional purposes. Such practices, however, must meet the following guidelines:

1. Only programs transmitted via open broadcasts or basic subscriber cable service are eligible under these guidelines. "Open broadcast" includes all commercial and public television stations. Programs transmitted via higher tier cable service, such as HBO and CINEMAX, are not eligible.
2. Recordings must be made at the initiative of an instructor or instructors who plan to use the program. Neither media librarians nor other support personnel are entitled to make recordings without such a prior request.
3. All recordings must include the copyright notice which was broadcast with the original program.
4. Use of off-air recordings is restricted by the following:
 - a. The programs may be used for instructional purposes only (not entertainment)
 - b. Instructional use of the recordings must be made within ten consecutive school days of the time the recording was made. "Consecutive school days" does not include weekends, holidays, or other times when school is not in session.
 - c. During those ten days, a teacher is permitted one showing to his or her students. One repeat is also permitted, if required for the purpose of instructional reinforcement. However, a teacher may use a program only once, no matter how many times a station might repeat the program.
 - d. Although programs need not be played in their entirety, recordings may not be physically edited to produce anthologies.
5. All tapes must be erased no later than 45 calendar days after the recording was made. Tapes may not be used with students after the first ten consecutive school days. This extension period is only for the purpose of evaluation by instructional staffs.
6. A limited number of copies may be reproduced from each off-air recording to meet the legitimate needs of teachers under these guidelines. Each such additional copy shall be subject to all provisions governing the original recording.

RENTED OR PURCHASED PRERECORDED VIDEOCASSETTE PROGRAMS

- A. Guidelines for School Use of Rented or Purchased Prerecorded Videocassette Programs
Teachers may use rented or purchased videocassette programs for instructional purposes only if all the following requirements are satisfied:
1. The programs have been made or recorded in a lawful manner
 2. The programs must be used in the course of face-to-face teaching activities. The teacher must be able to point to specific objectives in the 'Program of Studies' to which the program relates, and be prepared to justify how the program assists in attaining these objectives. If the teacher is not able to make such a justification, use of the work in the classroom is not allowed.
 3. Programs may be used only in classroom or similar places devoted to instructional activities.
 4. Programs may not be used for recreational or entertainment purposes.

5. Unlawfully made programs, or programs which teachers know or have reason to believe are not lawfully made, may not be used under any circumstances.
6. Use of the program must be approved by the area superintendent unless it is a recording of a new or current affairs program, or is recorded from Channel 53, Channel 26, or one of the school cable channels. (See Regulation 6115.2.)

REPRODUCTION OF COMPUTER SOFTWARE

A. Guidelines for Copying

It is illegal to duplicate copies of software on disk, tape or even in a computer's transient memory so that two or more students may use a program intended for a single user. It is illegal to make multiple copies of a disk.

Unless you have permission, it is illegal to duplicate a computer program for use by anyone other than the owner of the master copy. It is legal to make a back-up copy for archival purposes. It is illegal to copy preview materials.

Some tests for assessing legality include:

1. The market effect test: ask yourself if your use of the software results in economic harm to the copyright owner.
2. The intended use test: if the program is designed to be used by a single user, it cannot be modified to be used by additional people in a network situation.
3. The simultaneous/sequential users test: it is legal to have multiple users, as long as they are accessing the program one at a time and not simultaneously. If the program is designed to serve as a network, such use does not violate the copyright law.
4. The fair use test: it is very difficult to apply for the four factors governing fair use to computer software.
5. Licensing agreements: some software comes with use licenses written into the manuals. Whatever the provisions, users should know that any licensing restrictions stronger than copyright law itself takes precedence over the law.

It is illegal for a library to replace a damaged copy with a duplicated copy from the back-up for permanent use.

AUDIO VISUAL MATERIALS

A. Guidelines

If showings are for purely educational purposes and are related to instruction and shown only to students in the educational institution, educators may show films or videotapes without specific permission from the copyright owner.

Displays and performances of audiovisual work are prohibited in nonprofit educational institutions when:

1. They are used for entertainment, recreation, or even for their cultural or intellectual value but are unrelated to a teaching activity.
2. They are transmitted by radio by television (either closed or open circuit) from an outside location.
3. They are shown in an auditorium or stadium before an audience not confined to students, such as a sporting event, graduation ceremony, or community lecture or art series.
4. They involve illegally acquired or duplicated copy of the work.

RESPONSIBILITIES

- A. The principal of each school is responsible for establishing practices that will enforce the Patrick County Copyright Policy and Procedural Guideline at the local school level.
- B. The principal of each school is responsible for informing educational staff members and students as to the legal, ethical, and practical problems caused by copyright infringement.
- C. The principal of each school or his/her designee is responsible for signing license agreements for computer software purchases and used by the local staff.
- D. The area superintendent or his/her designee is responsible for signing license agreements for computer software purchased and used by area staff or for area wide implementation.
- E. Division employees will be expected to adhere to the provisions of Public Law 96-517, Section 7(b) which amends Section 117 of Title 17 of the United States Code to allow for making a back-up copy of computer programs by the owner (usually the library).
- F. The legal or insurance protection of the division will not be extended to employees who violate copyright laws.
- G. The area superintendent or his/her designee is responsible for seeing that copies of the copyright law is prominently displayed in close proximity to all copying devices.

NOTICE

The copyright law of the United States (Title 17, United States Code) governs the making of photocopies or other reproductions of copyrighted material.

Under certain conditions specified in the law, libraries and archives are authorized to furnish a photocopy or other reproduction. One of these specific conditions is that the photocopy or reproduction is not to be “used for any purpose other than private study, scholarship, or research.” If a user makes a request for, or later uses, a photocopy or reproduction for purposes in excess of “fair use”, that user may be liable for copyright infringement.

Full regulations governing copyright may be found in the Bylaws, Policy and Regulations for Patrick County Public Schools.

Adopted: January 13, 1997
