

INDEPENDENT SCHOOL DISTRICT 196
Rosemount, Minnesota
Educating our students to reach their full potential

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Title Copyright

1. Scope of Regulation

- 1.1 This regulation contains information on the following items related to the federal copyright law:
- 1.1.1 Intent of Law (section 2);
 - 1.1.2 Permission to Copy Copyrighted Materials (section 3);
 - 1.1.3 Fair Use of Copyrighted Materials (section 4);
 - 1.1.4 Printed Material (section 5);
 - 1.1.5 Video Recordings (section 6);
 - 1.1.6 Music (section 7);
 - 1.1.7 Public Performance (section 8);
 - 1.1.8 Computer Software (section 9);
 - 1.1.9 Educational Multimedia (section 10), and
 - 1.1.10 Internet (section 11).
- 1.2 More detailed information on the use of copyrighted material by employees and students is available from school media and video specialists.

2. Intent of Law

- 2.1 The intent of Public Law 94-553, United States Code Title XVII, Copyright, is to protect the authors of “original works of authorship” (including authors, creators, producers and publishers) by allowing them to control the publication and reproduction of their works.
- 2.2 The author (the owner of the copyright) has the exclusive rights to do and to authorize any of the following:
- 2.2.1 To reproduce the copyrighted work in copies or phonorecords;
 - 2.2.2 To prepare derivative works based upon the copyrighted work;

- 2.2.3 To distribute copies or phonorecords of the copyrighted work to the public by sale or other transfer of ownership, or by rental, lease or lending;
 - 2.2.4 In the case of literary, musical, dramatic and choreographic works, pantomimes, and motion pictures and other audiovisual works, to perform the copyrighted work publicly, and
 - 2.2.5 In the case of literary, musical, dramatic and choreographic works, pantomimes, and pictorial, graphic or sculptural works, including the individual images of a motion picture or other audiovisual work, to display the copyrighted work publicly.
3. **Permission to Copy Copyrighted Materials** -- If the proposed use of the copyrighted work is outside the scope of "fair use" (Section 107 of Public Law 94-553 -- see sections 4-10, below) or other relevant sections of Public Law 94-553 which permit such use, employees must secure permission to copy, reproduce in whole or in part, or to change the media format. Such permission must be secured via the Request to Duplicate Copyrighted Material, District Procedure 407.6P, in advance of the act of copying.
- 3.1 A copy of each completed Request to Duplicate Copyrighted Material, District Procedure 407.6P, should be on file in a central location within each building where copying occurs.
 - 3.2 A copy of each response to a Request to Duplicate Copyrighted Material, District Procedure 407.6P, should be on file in a central location within each building where copying occurs.
 - 3.3 Each building principal or supervisor shall designate an individual responsible for disseminating the Request to Duplicate Copyrighted Material, District Procedure 407.6P, and for maintaining a file of the completed requests and their responses.
 - 3.4 Whenever practical, schools or departments may coordinate their efforts and make one request.
4. **Fair Use of Copyrighted Materials** -- Section 107 of Public Law 94-553 includes a "fair use" provision which is intended to balance the interests of copyright owners with the needs of others for access to copyrighted material.
- 4.1 The fair use provision provides the criteria under which reproduction of copyrighted materials is permissible for such purposes as criticism, comment, news reporting, teaching, scholarship or research without prior written permission from the copyright holder.

- 4.2 The fair use provision includes four factors which determine whether copying may be done legally without written permission of the copyright holder.
 - 4.2.1 The purpose and character of the use, including whether such use is of commercial nature or is for nonprofit educational purposes;
 - 4.2.2 The nature of the copyrighted work;
 - 4.2.3 The amount and substantiality of the portion used in relation to the copyrighted work as a whole, and
 - 4.2.4 The effect of the use upon the potential market for or value of the copyrighted work.
5. **Printed Material** -- The following fair use guidelines for printed material, including books and periodicals, shall be adhered to by all employees.
 - 5.1 A single copy of any of the following may be made by or for a teacher for use in scholarly research, teaching or preparing to teach:
 - 5.1.1 A chapter from a book;
 - 5.1.2 An article from a periodical or newspaper;
 - 5.1.3 A short story, short essay or short poem, whether or not from a collective work;
 - 5.1.4 A chart, graph, diagram, drawing, cartoon (excluding copyrighted, syndicated cartoon characters) or picture from a book, periodical or newspaper;
 - 5.1.5 A short excerpt (up to 10 percent of the total work) from a performable unit of music such as a song, movement or section, for study purposes.
 - 5.2 Multiple copies (not to exceed more than one copy per student in a course) may be made by or for the teacher provided it meets the criteria of brevity, spontaneity and cumulative effect, and if each copy contains a notice of copyright.
 - 5.2.1 "Brevity" is defined as follows:
 - 5.2.1.1 A complete poem if less than 250 words and if printed on not more than two pages;
 - 5.2.1.2 An excerpt of no more than 250 words from a longer poem;

- 5.2.1.3 A complete article, story or essay of less than 2,500 words;
 - 5.2.1.4 An excerpt from any prose work of not more than 1,000 words or 10 percent of the work, whichever is less;
 - 5.2.1.5 One chart, graph, diagram, drawing, cartoon (excluding copyrighted, syndicated cartoon characters) or picture per periodical issue, or
 - 5.2.1.6 For special works combining poetry or prose with illustrations, an excerpt of not more than two of the published pages of the work and containing not more than 10 percent of the words found in the text of the special work.
- 5.2.2 “Spontaneity” is defined as follows:
- 5.2.2.1 The copying is at the instance and inspiration of the individual teacher, and
 - 5.2.2.2 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.
- 5.2.3 “Cumulative effect” is defined as follows:
- 5.2.3.1 The copying of the material is for only one course in the school in which the copies are made;
 - 5.2.3.2 Not more than one short poem, article, story, essay or two excerpts may be copied from the same author, nor more than three may be copied from the same collective work or periodical volume during one class term, and
 - 5.2.3.3 There shall be no more than nine instances of such multiple copying for one course during one class term.
 - 5.2.3.4 The above limitations do not apply to current news periodicals and newspapers, and current news sections of other periodicals. Multiple copies of these materials may be made for the classroom as long as they are not reproduced from sources specifically designed for student use.
- 5.3 Copying shall not be used to create or to replace or substitute for anthologies, compilations or collective works.

- 5.4 There shall be no copying of or from works intended to be consumable in the course of study or teaching, such as workbooks, exercises, standardized tests and test booklets, and answer sheets.
- 5.5 Copying shall not:
 - 5.5.1 Substitute for the purchase of books, publishers' reprints or periodicals;
 - 5.5.2 Be repeated with respect to the same item by the same teacher from term to term.
6. **Video Recordings** -- The following fair use guidelines for off-air recording shall be adhered to by all employees. (These guidelines, which are not in the federal copyright law, were developed in 1979 by the Negotiating Committee of the Congressional Committee of Courts, Civil Liberties and the Administration of Justice chaired by Representative Robert Kastenmeier.) These guidelines apply only to off-air recording by nonprofit educational institutions.
 - 6.1 The guidelines apply only to off-air recording by nonprofit educational institutions, and must be followed whether the recording is made in school or by a district employee at home for school purposes.
 - 6.2 A broadcast program may be recorded off-air simultaneously with broadcast transmission and retained by a nonprofit educational institution for a period not to exceed 45 calendar days after date of recording. After this 45-day period, all off-air recordings must be erased or destroyed immediately.
 - 6.2.1 "Broadcast programs" are defined as television programs transmitted by television stations for reception by the general public without charge or cable programs also available "on-air" (through open broadcast) in the area.
 - 6.2.2 For example, a CBS program may be taped off cable since it is also available through open broadcast, but an HBO program or other out-of-town station (such as WGN or TBS) may not be taped since they are only available through a pay service.
 - 6.2.3 Recording a program from satellite or cable is permissible when the copyright holder offers rights without requesting (i.e., Cable in the Classroom programming, C-Span and special satellite broadcasts).

- 6.2.4 Taping programs off cable networks which are not available through open broadcast (such as Arts & Entertainment, The History Channel, Discovery, etc.) may be permissible on a limited basis depending on the cable network. For more information, the school media or video specialist should be consulted.
- 6.3 Off-air recordings may be used once by individual teachers in the course of relevant teaching activities, and repeated only once when instructional reinforcement is necessary in classrooms and similar places devoted to instruction within a single building, cluster or campus, as well as in the homes of students receiving formalized home instruction, during the first 10 consecutive school days in the 45-calendar-day retention period. ("School days" are defined as school session days - not counting weekends, holidays, vacations, examination periods or other scheduled interruptions - within the 45-calendar-day retention period.)
- 6.4 Off-air recordings may be made only at the request of individual teachers, and may not be regularly recorded in anticipation of requests. No broadcast program may be recorded off-air more than once at the request of the same teacher, regardless of the number of times the program may be broadcast.
- 6.5 A limited number of copies may be reproduced from each off-air recording to meet the requests of several teachers for the same program. Each such additional copy shall be subject to all provisions governing the original recording.
- 6.6 After the first 10 consecutive school days, off-air recordings may be used up to the end of the 45-calendar-day retention period only for teacher evaluation purposes, i.e., to determine whether to include the broadcast program in the teaching curriculum, and may not be used in the recording institution for student exhibition or any non-evaluation purpose without authorization from the producer. Recordings are to be stored in the media center while permission is being sought.
- 6.7 Off-air recordings need not be used in their entirety, but the programs must be recorded in their entirety and may not be altered from their original content. Off-air recordings may not be physically or electronically combined or merged to constitute anthologies or compilations without written or purchased permission.
- 6.8 All copies of off-air recordings must include the copyright notice on the broadcast program as recorded.
- 6.9 Rented or purchased videotapes that carry the warning for home use only may be used in face-to-face teaching for an instructional goal. These videotapes may not be used for entertainment.

- 6.9.1 Rental or district-purchased commercially-produced videotapes must be obtained through a licensed distributor.
- 6.9.2 Rental or district-purchased commercially-produced videotapes must be obtained by the instructor or media director.
- 6.9.3 Rental or district-purchased, commercially produced videotapes may not be used in the classroom or school for entertainment, reward, fundraising or recreation unless the tapes were secured with a public performance license.
- 6.10 Employees may not make an archival or back-up copy of a copyrighted film or videotape.
- 6.11 Employees may not make a copy of a copyrighted film or videotape for a friend, even if the employee purchased the program.
- 6.12 Educational institutions are expected to establish appropriate control procedures to maintain the integrity of these guidelines. All licensed (approval granted) off-air recordings must be kept in one central location in a school, controlled by media personnel and available for inspection by producers or distributors.
- 6.13 Guidelines for Videotaping Programs Off the Satellite -- An educational institution may tape programs off a satellite dish under the following conditions:
 - 6.13.1 The signal is not scrambled; there is no fee required for viewing the channel; the rights for the program have previously been obtained by a licensing agency, i.e., Minnesota Department of Children, Families and Learning; Public Broadcasting System (PBS), Instructional Technology Educational Coordinating Council (I-TECC).
 - 6.13.2 Permission for taping was obtained in advance from the copyright holder to educators for the specific programs being offered.
 - 6.13.3 Fair use guidelines for taping off-air programs for broadcast television do not apply to programs received from a satellite.
- 7. **Music** -- The following fair use guidelines for music materials and performance shall be adhered to by all employees.
 - 7.1 Emergency copying is allowed only if the purchased copies are not available for an imminent performance provided that purchase replacement copies shall be substituted in due course. The photocopies must be destroyed after the performance.

- 7.2 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, movement or aria. The excerpt must be less than 10 percent of the whole work.
- 7.3 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.
- 7.4 Printed copies that have been purchased may be edited or simplified provided that the fundamental character of the work is not distorted or lyrics either added or altered.
- 7.5 A single copy of recordings of performances by students may be made for evaluation, rehearsal purposes and for the institution's archives.
- 7.6 A single copy of a sound recording (tape, disc, cassette, etc.) of copyrighted music may be made from sound recordings owned by the district, school or individual teacher for the purpose of constructing aural exercises or examinations, and may be retained by the institution or individual. (This pertains only to the copyright of the music itself and not to any copyright that may exist in the sound recording.)
- 7.7 Music may be used for background to a media presentation only if the presentation is used for a planned, systematic direct teaching activity.
- 7.8 Sheet music may be photocopied only if a purchase order has been issued for the music. All photocopies must be destroyed once the purchased materials are received.
- 7.9 Employees may not do the following in relation to music materials and performance:
 - 7.9.1 Copy to create or replace or substitute for anthologies, compilations or collective works;
 - 7.9.2 Copy 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;
 - 7.9.3 Copy for the purpose of performance, except as in section 6.1 above;
 - 7.9.4 Copy for the purpose of substituting for the purchase of music, except as in sections 6.1 and 6.2 above;

- 7.9.5 Copy without inclusion of the copyright notice which appears on the printed copy;
- 7.9.6 Record and sell the recording of a band, choir or other concert without paying the mechanical copyright, or
- 7.9.7 Distort or alter (including arranging) a copyrighted work without written permission of the copyright owner.

8. **Public Performance** -- The following guidelines for public performance shall be adhered to by all employees.

8.1 The copyright law provides that, in the case of literary, musical, dramatic, choreographic works, pantomimes, motion pictures and audiovisual works, the copyright owner has the exclusive right to perform the work publicly. However, the law also provides for the following special performance privileges for educators in nonprofit educational institutions.

8.1.1 The performance is allowed only for face-to-face teaching activities directly related to instruction.

8.1.1.1 This is intended to exclude outside transmissions such as radio and television, whether open broadcast or closed circuit.

8.1.1.2 In this context, "face-to-face" does not require that the teacher and students be able to see each other, although it does require their simultaneous presence in the same general place. As long as the teacher and students are in the same building or general area, the exemption extends to the use of devices for amplifying sounds and for projecting images.

8.1.1.3 Performances for recreation or intellectual appeal which are not related to specific teaching activities are not eligible for this exemption.

8.1.2 Performances of the defined works must only be by the teacher or students. However, guest lecturers are permitted if their instructional activities are confined to the classroom activities.

8.1.3 The performance must take place in a classroom or similar place devoted to instruction. Such other places include studios, workshops, training fields, the stage of an auditorium, libraries and gymnasiums, if they are being used for systematic, instructional activity.

- 8.1.4 The exemption would not apply to performances in an auditorium or stadium during a school assembly, graduation ceremony, class play or sporting event, where the audience is not confined to the members of a particular class. Therefore, the exemption should be considered to be for classroom performances, not for school performances.
 - 8.2 All the preceding limitations related to this exemption apply when the institution wants to perform an appropriate work in the classroom. However, the right of performance via closed-circuit television or to perform in an auditorium may be negotiated at the time of purchase of the particular program or the performance may be licensed by negotiating such an agreement. The law does not prevent the copyright holder from giving his or her rights to the institution. Therefore, a person may always write for permission even if a specific performance exemption does not exist.
9. **Computer Software** -- The following guidelines for computer software shall be adhered to by all employees. (For more information about computers, refer to Administrative Regulation 407.7AR, Acceptable Use of Information Technology - Employees.)
 - 9.1 District 196 equipment may not be used for making illegal copies of software.
 - 9.2 The use of illegally copied software in schools or offices is prohibited.
 - 9.3 Software licensing agreements of copyright holders must be observed.
 - 9.4 A legal copy of computer software must meet any or all of the following criteria:
 - 9.4.1 It is in the public domain;
 - 9.4.2 It is covered by a licensing agreement with the courseware author, vendor or developer;
 - 9.4.3 It has been donated to the district and, to the user's knowledge, is a bona fide contribution of a legal program;
 - 9.4.4 It has been purchased by the school district, and/or
 - 9.4.5 It is a legal program being evaluated for purchase.
 - 9.5 Employees may take the following actions in relation to computer software:
 - 9.5.1 Make an archival or back-up copy of a software program that they own. The back-up is to be used only if the original fails. Teachers may not use the back-up copy on a second computer simultaneously with the original.

- 9.5.2 Put a copy of a program on a hard drive (in addition to the back-up copy).
 - 9.5.3 Adapt the program to their use by adding to the content or adapting it to another language. The adapted version of the program may not be sold, distributed or transferred.
 - 9.5.4 Write the publishers of copyrighted programs to obtain permission to use the software in a manner that otherwise could be in violation of copyright law.
 - 9.5.5 Purchase site licensing or multiple copies of the program.
 - 9.5.6 Discourage students from making and using copies of copyrighted software.
- 9.6 Employees may not take the following actions in relation to computer software:
- 9.6.1 Make multiple back-up copies;
 - 9.6.2 Make one copy for home and one copy for school;
 - 9.6.3 Make a copy for a friend (unless it's public domain);
 - 9.6.4 Load one program into several computers for simultaneous use;
 - 9.6.5 Load a program onto a network without a network license;
 - 9.6.6 Make multiple copies of the printed documentation that accompanies copyrighted software unless written permission has been obtained, or
 - 9.6.7 Use illegal copies of software with students or allow them to see illegal copies in use.
- 9.7 All employees are responsible for ensuring that no copies are made of software that is provided by the software publisher for evaluation.
10. **Educational Multimedia** -- The following guidelines for fair use of educational multimedia shall be adhered to by all employees.
- 10.1 These guidelines were agreed upon by educators and multimedia copyright holders, and acknowledged by the U.S. House of Representatives Subcommittee on Courts and Intellectual Property on September 27, 1996.)

- 10.2 These guidelines apply to use: without permission; of portions; of lawfully acquired copyrighted works; in educational multimedia projects; created by educators or students; as a part of a systematic learning activity by nonprofit educational institutions.
- 10.3 Educational multimedia projects created under these guidelines combine students' and/or educators' original material together with various copyrighted media formats including, but not limited to, motion media (film, video, animated digitized sequences), music, text material, graphics, illustrations, photographs and digital software which are assembled into an integrated presentation. (These guidelines apply, for example, to employee and student presentations created using multimedia authoring tools such as HyperStudio, Authorware, PowerPoint and ClarisWorks.)
- 10.4 The following amounts of copyrighted works can reasonably be used or incorporated in an educational multimedia project.
 - 10.4.1 Motion media -- up to 10 percent or three minutes, whichever is less, of a single copyrighted piece.
 - 10.4.2 Text material -- up to 10 percent or 1,000 words, whichever is less, of a single work.
 - 10.4.3 Poems of less than 250 words -- an entire poem, but no more than three poems by one poet or five poems by different poets from a single anthology.
 - 10.4.4 Poems of more than 250 words -- up to 250 words, but no more than three excerpts from a single poet or five excerpts by different poets from a single anthology.
 - 10.4.5 Music, lyrics and music video -- up to 10 percent, but no more than 30 seconds of music and lyrics from a single musical work. (Note: Any alterations of a musical work may not change the basic melody or the fundamental character of a work.)
 - 10.4.6 Illustrations and photographs -- may be used in its entirety, but no more than five images by a single artist or photographer, nor more than 10 percent or 15 images, whichever is less, from a single published collected work.
 - 10.4.7 Numerical data sets -- up to 10 percent or 2,500 fields (a specific item of information in a record of a database file, such as a name or a social security number) or cell entries (the intersection where a row and a column meet on a spreadsheet).
- 10.5 Educators may take the following actions in relation to educational multimedia:

- 10.5.1 Incorporate portions of lawfully acquired copyrighted works when producing educational multimedia projects to support their teaching needs;
 - 10.5.2 Present their projects in face-to-face instruction, in directed self-study assigned to students, and in remote instruction to students enrolled in curriculum-based courses and located at remote sites over a network that has technology limiting the access and preventing the making of copies of the material;
 - 10.5.3 Retain their projects for use in supporting teaching needs for a period of up to two years after the first instructional use with a class (use beyond that time period, even for educational purposes, requires permission for each copyrighted portion incorporated in the production), and
 - 10.5.4 Retain their projects indefinitely for use in presentations to their peers (at professional workshops or conferences, for example) or for later personal uses such as tenure review or job interviews.
- 10.6 Educators may not take the following actions in relation to educational multimedia:
- 10.6.1 Replicate or distribute personally created educational multimedia projects, even for educational purposes, beyond the limitations included in these guidelines;
 - 10.6.2 Distribute personally created educational multimedia projects over non-secured electronic networks such as the Internet without obtaining permission for all copyrighted works incorporated in the program;
 - 10.6.3 Use copyrighted works in multimedia projects for non-educational or commercial purposes without seeking individual permissions, or
 - 10.6.4 Make any more than two copies of their project for use, plus one additional copy that may be kept for preservation and may be used only to replace a “use copy” that has been lost, stolen or damaged.
- 10.7 Educators shall credit sources and display the copyright notice © and copyright ownership information, if shown in the original source, for all works incorporated as part of the project.
- 10.8 Educators must include on the opening screen of their multimedia program and any accompanying material a notice that certain materials are included under the fair use exemption of the U.S. Copyright Law, have been prepared according to the multimedia fair use guidelines and are restricted from further use.

- 10.9 If there is a possibility that the educator's own educational multimedia project incorporating copyrighted works under fair use could later result in broader dissemination (either not-for-profit or commercial), the district strongly recommends that the educator take steps to obtain permission during the development process for all copyrighted portions rather than wait until after completion of the project.
11. **Internet** -- Educators are advised to exercise special caution in using digital material downloaded from the Internet.
- 11.1 Access to works on the Internet does not automatically mean they can be reproduced and reused without permission. Although some public domain material is available on the Internet (such as government reports), much of the material is copyrighted.
- 11.2 If an individual wants to use something from someone else's home page or Web site, permission must be obtained unless permission to copy is granted in the text of the home page or Web site.
- 11.3 Copyrighted materials may not be posted on a Web site for Internet distribution, even for educational purposes.
- 11.4 For more information about use of the Internet, refer to Administrative Regulation 407.7AR, Acceptable Use of Information Technology - Employees.

References: Public Law 94-553, United States Code, Title XVII, Copyright