

INSTRUCTIONAL MATERIALS
REPRODUCTION OF COPYRIGHTED MATERIALS
INTERPRETATION FOR EDUCATORS
IN KING GEORGE COUNTY SCHOOLS

INTRODUCTION

Teachers and administrators in King George County Schools desire to provide students with access to quality materials at the lowest cost possible. The copyright law does provide fair use limits for educators who need to use copyrighted works. This document represents the interpretation of the Copyright Law for King George County Schools (classified as nonprofit educational institutions). The best option is to plan in advance and to receive written permission from publishers to use copyrighted material.

1. Title, author(s) or editor(s), edition number;
2. Exact amount (pages) of material to be used, preferable including a photocopy of the material involved;
3. Number of copies to be made;
4. Description of how material will be used, for what purpose and/or course and frequency of use if for more than one occasion;
5. Type of duplication (photocopy, ditto, etc.).

PENALTIES FOR INFRINGEMENT OF COPYRIGHT

- EDUCATORS, EDUCATION INSTITUTIONS, AND SCHOOL DIVISIONS MAY BE SUED IF THEY VIOLATE OR INFRINGE THE RIGHTS OF COPYRIGHT.
- The legal or insurance protection of King George County Schools will not be extended to employees who knowingly violate copyright laws.
- The copyright law specifies a normal penalty of from \$250 to \$10,000 in statutory damages for each violation, but the penalty can be as much as \$100,000 for a willful violation. Even if a defendant is judged not to be in violation of the law, court costs and attorneys' fees must be borne by the individual and/or organization charged with the copyright infringement.
- Educators should be aware that criminal charges of copyright violation can be brought. Those found guilty of "willfully infringing a copyright for private or commercial financial gain, could be fined up to \$100,000 or imprisoned for up to one year or both."

The school division assumes no liability for infringement of copyright by individual employees.

PHOTOCOPYING

Single Copy

Teachers preparing to teach a class may make or request to have made a single copy of:

- A book chapter;
- An article from a newspaper or periodical;
- A short story, essay, or short poem;
- A chart, graph, diagram, cartoon, drawing, or picture from book, periodical, or newspaper.

Multiple Copies

Teachers desiring to duplicate a copy of work for EACH student must:

- Include a notice of copyright with each copy AND meet these three tests:
 1. BREVITY TEST: For POETRY: a copy of a poem if less than 250 words and if printed on no more than two pages or, no more than 250 words if from a longer poem; For PROSE; any complete story, essay or article under 2,500 words or excerpts of not more than 1,000 words or 10% of the work; for SPECIAL, SHORTER WORKS, so designated because they contain illustrations (e.g. children's stories) may not be copied in their entirety even though they contain less than 2,500 words. Educators may NOT copy more than two published pages containing no more than 10% of the text.

For ILLUSTRATIONS; no more than one chart, graph, diagram, drawing, cartoon, or picture per book or periodical issue.

2. SPONTANEITY TEST: "Inspiration and decision to use the work" must occur so soon prior to classroom use that it would not be feasible for the teacher to write for and receive permission to duplicate the material. The teacher must request the copying and not as directed by an administrator.
3. CUMULATIVE EFFECT TEST: Copies of the material must be for only one course in the school in which copies are made;

No more than one short poem, article, story, essay or two excerpts may be copied from the same author;

No more than three copies from the same collective work or periodical during one class term.

There must not be more than nine instances of such multiple copying for one course during one class term.

Prohibited Copying

Some uses are prohibited regardless of the otherwise permissible copying.

- Educators may not create through photocopying their own anthologies, compilations or collective works whether brought together in one collection or reproduced and used separately.
- Copying must NOT substitute for the purchase of books, periodicals, or reprints. THIS ESPECIALLY APPLIES TO THE DUPLICATION OF "CONSUMABLE" MATERIALS SUCH AS WORKBOOKS, TEST BOOKLETS, AND STANDARDIZED TESTS WHICH MAY NOT BE DUPLICATED.
- The teacher must not duplicate the same item from one term to another.

Music

(See also: Audio Visual Materials - Audio Disc, Cassettes, Tape Recordings)

Permissible Copying

- Educators are permitted to make copies of music in an emergency defined as "replace purchased copies which for any reason are not available for an IMMINENT performance "AS LONG AS replacement copies are purchased later")
- For academic purposes other than performances, a teacher or researcher may duplicate a single copy of an "entire performable unit (section, movement, aria, etc.)" if that unit is unavailable except in a larger work and if it is out of print, as confirmed by the copyright proprietor. For other nonperformance educational purposes, multiple copies of no more than 10% of the whole work may be made as long as the excerpt does not comprise a performable unit. This multiple copying should not exceed one copy per student.
- Printed copies of purchased music may be edited or simplified EXCEPT alterations or addition of lyrics.

File: EGAA-R
Page 4

- A single copy of a sound recording of copyrighted music may be made for use in "constructing aural exercises or examinations"--THIS APPLIES TO THE COPYRIGHT OF THE MUSIC ITSELF AND NOT TO ANY COPYRIGHT THAT MAY EXIST IN THE SOUND RECORDING.
- A single copy of a recording of performance(s) by students is permissible for evaluation or rehearsal purpose and may be retained by the teacher or educational

institution.

- "To create or replace or substitute for anthologies, compilations or collective works."
- Copying from works intended to be "consumable" such as workbooks, exercises, standardized tests and answer sheets.
- For performance except as above.

PHOTOCOPYING BY LIBRARY MEDIA STAFF

Copying is to take place ONLY at the specific request of users or other libraries.

Under Section 108 of the Copyrights Act library employees are permitted to make a SINGLE copy of a work as long as the library receives no financial gain, and affixes notice of copyright on all duplicated works.

In addition to the above requirements, the library media center may make copies only under the following conditions:

- It may duplicate in facsimile from a published, copyrighted work that is damaged, deteriorating, lost or stolen if a reasonable effort determines no possibility for replacement.
- Recordings are to be shown to students no more than twice during the 10-day period ... the second time for instructional reinforcement only.
- After the 10-day period the recordings may be viewed only by teachers.
- If several teachers request videotaping of the same program, duplicate copies are permitted. (ALL copies are subject to the same restrictions as the original).
- Off-air recordings may not be physically or electronically altered or combined with others to form anthologies, but do not have to be shown in their entirety.
- All copies of the recordings must include the copyright notice on the broadcast program as recorded.
- Schools may not build library collections of videotapes of television programs.

FROM PUBLIC BROADCASTING SERVICES

Four public broadcasting services drew up a joint policy statement that allows schools specific videotaping privileges for their production: Public Broadcasting Service, Public Television Library, Great Plains National Instructional Television Library, Agency for Instructional Television. Educators may record broadcasts from these agencies on the following conditions:

1. Recordings may be made only by students, faculty or staff members in accredited, nonprofit education institutions.
2. May be used only for instructional or educationally related activities in a classroom, laboratory, or auditorium.
3. May be used only in the school for which they were made.
4. The recordings may be used "only during the seven day period of local ETV and other educational broadcast licensed by the distribution agency, and will be erased or destroyed immediately at the end of the period..."
5. ALL REQUESTS FOR TAPING MUST COME DIRECTLY FROM TEACHERS AND MUST BE SHOWN ONLY TO STUDENTS AND FACULTY FOR INSTRUCTIONAL PURPOSES.

TELEVISION BROADCASTS TAPED BY TEACHERS

- At this time there is no specific court ruling or legislation directly addressing this particular activity. The 1984 U.S. Supreme Court SONY decision affirmed the right of individuals to use videocassette recordings in their homes. This right was upheld primarily on the basis of "private, noncommercial time-shifting in the home." The majority did not address the use of privately taped programs for public performances or for educational purposes.

VIDEOCASSETTE PROGRAMS RENTED, PURCHASED OR TAPED AT HOME BY TEACHERS

- Programs must relate to specific objectives in the classroom program of studies and/or SOL's.
- Programs may NOT be used for recreational or entertainment purposes.
- Programs purchased by the school or teacher and marked "For Home Use ONLY" may be used in the classroom if directly related to the instructional goals.
- Programs rented by the teacher and marked "For Home Use ONLY" may not be used in the classroom UNLESS the merchant provides a WRITTEN and SIGNED release form giving permission for classroom use.

- Teachers may not tape a program at home from either a broadcast or cable transmission for use in the classroom. Refer to the two sections above for allowable taping from commercial and cable transmission.
- Use of programs from direct broadcast must be approved by the principal, division level curriculum specialists or department chairperson.

Issued: October 12, 1992

Reissued: August 19, 1993, August 25, 2004

=====

COMPUTER SOFTWARE COPYRIGHT COMPLIANCE

In an effort to discourage violation of software copyright laws and to prevent illegal use of the computer system, staff shall follow the procedures listed below.

1. Division employees will be expected to adhere to the provisions of Public Law 96-517, Section 7(b) which amends Section 117 and Title 17 of the United States Code to allow for the making of a back-up copy of computer programs. This section states "... it is not an infringement of the owner of a copy of computer programs to make or authorize the making of the copy or adaptation of that computer program provided.
 - (a) That such a new copy of adaptation is created as an essential step in the utilization of the computer program in conjunction with the machine and that it is used in no other manner, or;
 - (b) That such a new copy or adaptation is for archival purposed only and that all archival copies are destroyed in the event that continued possession of the computer program should cease to be rightful.
 - (c) The following computer software may also be copied by or at the individual request of a staff member for classroom use:
 1. In-house production and
 2. Works that are not copyrighted or works in the public domain.
2. The proper use of computers will be taught through planned computer curriculum and computer-related instruction for students. Staff will address the ethical and practical problems caused by software piracy.
3. Division employees are expected to maintain software and supporting manuals in a safe place. The manual needs to be available for software and hardware audit.
4. When software is being used on a disk sharing system, efforts will be made to secure this software from copying.
5. Illegal copies of copyrighted programs may not be made or used on school equipment.
6. The Superintendent or his/her designee is the only individual who may sign license agreements for software in the school division. Each school using the software should have a copy of the signed software duplication.
7. No employee of the school division will surreptitiously or illegally access any data base or electronic bulletin board.

8. No employee of the school division will encourage or allow any student to surreptitiously or illegally duplicate computer software or illegally access any data base or electronic bulletin board.
9. The principal of each school site or manager of each department is responsible for enforcing this regulation.

Penalties for Infringement of Copyright

EDUCATORS, EDUCATION INSTITUTIONS, AND SCHOOL DIVISIONS MAY BE SUED IF THEY VIOLATE OR INFRINGE THE RIGHTS OF COPYRIGHT.

THE LEGAL OR INSURANCE PROTECTION OF BLANK SCHOOLS WILL NOT BE EXTENDED TO EMPLOYEES WHO KNOWINGLY VIOLATE COPYRIGHT LAWS.

COPYRIGHT INFRINGEMENT INVOLVING THE REPRODUCTION OR DISTRIBUTION OF AT LEAST 10 COPIES OF ONE OR MORE COPYRIGHTED WORK(S) WITH A RETAIL VALUE IN EXCESS OF \$2500 (ANY KING, NOT JUST COMPUTER SOFTWARE) WITHIN A 180 DAY PERIOD IS A FELONY. FIRST OFFENSE IS PUNISHABLE IN GENERAL BY A SENTENCE OF UP TO 5 YEARS AND/OR A FINE OF UP TO \$250,000 FOR INDIVIDUALS AND UP TO \$500,000 FOR ORGANIZATIONS. ANY SUBSEQUENT OFFENSE IS PUNISHABLE IN GENERAL BY A SENTENCE OF UP TO 10 YEARS AND/OR THE FINES SPECIFIED ABOVE.

Issued: August 19, 1993
Reissued: August 25, 2004

=====