

Davidson County Schools' Copyright Guidelines

What is copyright? Copyright law governs works including books, photographs, music, software, multimedia, etc. Fair Use provides educators and other users with limited rights to use copyrighted works without prior permission under specific conditions. It is the responsibility of the media coordinator to share information with staff and students regarding copyright law and fair use.

A. Description

The federal copyright statute governs the reproduction of works of authorship. In general, works governed by copyright law include such traditional works of authorship as books, photographs, music, drama, video and sculpture, and also software, multimedia, and databases. Copyrighted works are protected regardless of the medium in which they are created or reproduced; thus, copyright extends to digital works and works transformed into a digital format. Copyrighted works are not limited to those that bear a copyright notice. As a result of changes in copyright law, works published since March 1, 1989, need not bear a copyright notice to be protected under the statute.

- **Any materials that are not considered public domain fall under the Fair Use guidelines** Materials generally considered public domain include federal government publications, works created by an author who died over 75 years ago, and works that are specifically identified as not copyrighted.
- Two provisions of the copyright statute are of particular importance to teachers and researchers:
 - A provision that codifies the doctrine of “fair use,” under which limited copying of copyrighted works without permission of the owner is allowed for certain teaching and research purposes
 - A provision that establishes special limitations and exemptions for the reproductions of copyrighted works by libraries and archives

B. Rationale

- Enforcement of copyright law may not always be apparent.
- School personnel must be concerned with copyright because this is a legal issue. Copyright violations are a felony.
- Violations can be very costly to individuals and schools. Each incident could cost at least \$10,000. North Carolina Department of Public Instruction reports the average actual fine per incident is \$50,000.

- Respect the creator and his/her work (they won't produce any more works if they can't make a profit.)
- Teachers should serve as role model for students by adhering to copyright laws.
- Remember the phrase, "Abuse It and Lose it!"
 - Whether the material is to be sold
 - The type of reproduction (ditto, photocopy, or typeset)

B. Giving credit for copyrighted works (See Appendix for Resources for Creating Citations.)

- Educators and students must credit sources, giving full bibliographic information when available.
- Educators and students must display the copyright notice and copyright ownership information if this is shown in the original source.
- Copyright information for images may be shown in a separate bibliographic section unless the presentation is being used for distance learning. In this case, the information must be incorporated within the image itself (i.e., it must appear on the screen when the image is viewed).
- For multimedia presentations you or your students create that contain copyrighted materials, use the following statement at the beginning of the presentation to show that you have adhered to copyright laws:
 - "This presentation adheres to Fair Use Guidelines for Educational Multimedia. Further use of this presentation and its contents is prohibited."
- For multimedia presentations you or your students create that do not contain copyrighted materials, use the following statement at the beginning of the presentation:
 - "Further use of this presentation and its contents without

c. Fair Use

A. Description

Fair Use provides educators and other users limited rights to use copyrighted works without prior permission under specific conditions.

B. Factors that help determine Fair Use

- Purpose and character of use (commercial or nonprofit educational)
- Nature of copyrighted work
- Amount and substance of portion used in relation to work as a whole
- Effect of use on potential market for or value of work. Unpublished works are also protected under these guidelines.

C. Tests of Fair Use

1. Brevity

- **Text or print:**

- Up to 10% of a copyrighted work or 1000 words, whichever is less
 - An excerpt of not more than 1000 words of a book (10% or less)
 - 2 pages of a picture book
 - A complete article, story or essay of less than 2,500 words from a book, periodical, or newspaper
 - One chart, graph, cartoon, drawing, or picture per book or periodical
 - Current newspaper or periodical articles no more than two weeks old

- **Poems**

- Entire poem if less than 250 words and if printed on not more than two pages
- 250 words or less if longer poem
- No more than 5 poems (or excerpts) of different poets, from an anthology
- Only 3 poems (or excerpts) per poet

- **For educational purposes, a teacher can make single copies of:**

- A chapter from a book
- An article from a newspaper or periodical
- A short story – less than 2500 words
- A chart, graph, cartoon, drawing, or picture

- **Illustrations and images (when scanned, copied, or projected)**

- A photograph or illustration in its entirety
- No more than 5 images of an artist's or photographer's work
- When using a collection, no more than 10% or no more than 15 images, whichever is less
- Cannot be altered in any way

- **Motion media**

- Up to 10 % of a copyrighted work or 3 minutes, whichever is less
- Cannot be altered in any way

- **Audio (including music)**

- Up to 10% of a copyrighted musical composition, but no more than 30 seconds
- Up to 10% of a body of sound, but no more than 30 seconds
- Any alterations cannot change the basic melody or the fundamental character of the work.
- Permissible uses:

- Teachers may make emergency copies of sheet music to replace purchased copies which are not available for an imminent performance, provided purchased replacement copies are acquired in due course.
- For classroom instruction, multiple copies of excerpts of works may be made, provided that the excerpts do not comprise a part of the whole that would constitute a performable unit, such as section, movement, or aria. The number of copies shall not exceed one per student.
- A single copy of recordings of student performance may be made for evaluation or rehearsal purposes and may be retained by the school or teacher.
- A single copy of a sound recording of copyrighted music may be made from sound recordings owned by a school or a teacher for the purpose of constructing aural exercises or examinations and may be retained by the school or teacher.
- Prohibited uses:
 - Copying to create or replace collective works
 - Copying all or part of consumable works
 - Copying for the purpose of performance except as outlined above
 - Copying for the purpose of substituting for the purchase of music
 - Copying without inclusion of the notice of copyright
- Video

UTILIZATION OF VIDEO IN INSTRUCTIONAL SETTINGS

The Davidson County school system recognizes the value of teachers using videos in instructional settings in conjunction with an integrated curriculum. The establishment of guidelines facilitates appropriate selection and utilization of this medium. Individual faculty/staff members and building administrators have responsibility for implementing this regulation.

Teachers have permission to use (perform) videos without a public performance license as stipulated by Section 110 (1) of the Copyright Statute (U.S. Code, Title 17). The following conditions must be satisfied: The use must be (1) in a nonprofit educational institution; (2) in a classroom or similar place devoted to instruction; (3) part of the regular instructional process, thus ruling out extracurricular or recreational uses; (4) with teacher, students, and video in the same place, thus ruling out transmissions from outside of that building; (5) a lawfully made copy.

- **Entertainment and reward** uses of commercial videos are not in compliance with Section 110 (1) of the Copyright Statute. Videos are NOT to be used for entertainment or reward.
- **Video request procedures** prior to use of the media encourage instructional planning, ensure access to necessary equipment, and serve as a legal safeguard. Such record-keeping strategies should be site-based decisions.
- **School-owned** videos are purchased with the written understanding that they will be used in instructional settings even if the labeling reads “for home use only.” Site-based decisions may limit use of instructional media by grade level or department. In such instances, permission to digress from procedure should be obtained from the school administrator.
- **Privately purchased** videos are sold with a home use only agreement, not with audience rights. However, a 1985 interpretation by the NC Attorney General reaffirms that such an application would be permissible for educators under Section 110 (1). Teachers wishing to use videos from outside the school collection should comply with site-based decisions regarding approval. Use of parent-owned or student-owned commercial videos in classrooms is discouraged.
- **Other educational agency** videos (i.e. public library, state library, Department of Public Instruction) are acquired through predetermined selection procedures. These titles would be permissible under Section 110 (1) and appropriate for the audiences specified. Site-based decisions govern their level of use.
- **Rental** videos are circulated under a contractual agreement for home use only; however, the NC Attorney General’s interpretation reaffirms permissible use for educators.
- **Rated** videos or DVD’s used in the instructional setting must be preceded by permission from the principal and the parent-signed approval forms for the class if any student in the class does not meet the age requirement. If all students meet the age requirement, but the content is controversial, permission slips are recommended. Permission slips must be kept on file. Rated media in the school collection must be clearly marked with precautions including the reasons for restriction (i.e. language, sex, violence).
- If a student does not have permission to view a rated video, the teacher must give that student a non-penalized alternative.
 - R videos should be approached with caution and are permitted on a limited basis if all of the following conditions are met:
 - Only clips that are relevant to the area of study will be shown
 - Administration at the school will preview the clips before approving use
 - Scenes of nudity, extreme violence, sexual situations, or excessive vulgarity will not be permitted

- Parental permission must be obtained
- NC-17 videos are NOT allowed.
- **Closed circuit** transmission of videos is permissible in an instructional setting when the conditions of Section 110 (1) are met as determined by the interpretation from the NC Attorney General.
- **Television** viewing should be in face-to-face teaching activities. Educators should be aware of television ratings, and viewing decisions should be based upon guidelines consistent with rated videos.
- **Copying** of commercial programming beyond the parameters of the fair use guidelines is subject to fines of up to \$10,000 for each occurrence. Archival copying is not applicable to audiovisual and electronic formats except computer software.
- **School-produced videos** should be confined to use for the designated purpose. Viewing outside the school premises (i.e. Web sites, multimedia presentations, civic meetings) requires administrative approval and parental consent of the students filmed.
- **Substitute teacher's** use of video should be in keeping with the teacher's lesson plan. Emergency use of irrelevant videos is not in compliance with Section 110 (1).
- **No fees** may be charged for viewing a video on the school grounds.
- It is illegal to make copies of purchased or rented videos or to alter them in any way.
- TV recording
 - School television programs
 - Off-air recordings may be made only at school and only at the request of individual teachers. No broadcast program may be recorded off-air more than once at the request of the same teacher.
 - **Off-air recording** of School Television series has copyright clearance for public schools in North Carolina. The copyright status appears on each series fact sheet in the STV Catalog. The limitations on recording of commercial and PBS programs vary; however, the 10-day fair use guidelines are applicable to most commercial broadcasts, and the 7-Day School Rerecord Rights are applicable to PBS.
 - The series fall into one of two copyright categories:
 1. "Unlimited use" designates a series that is owned by the Department of Public Instruction. The programs may be taped off-air, duplicated, and shared by schools, or purchased from a private company and retained on tape for as long as the users want to use the series.

2. “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. School personnel are notified when the tapes are to be erased.
- Non-school television programs/videos
 - A broadcast may be recorded simultaneously with the broadcast transmission and retained for a period of 45 calendar days. At the end of this period, it must be erased or destroyed. See cable or satellite program guides for taping rights.
 - The recording may be used once in the course of relevant teaching activities, and may be repeated once for reinforcement in the first 10 school days after the recording. After this, the recording may be used only for teacher evaluation to determine its merit for purchase or further interest in programs in the series.
 - All copies of the off-air recording must include the copyright notice on the broadcast program as recorded.
 - Off-air recordings may not be regularly recorded in anticipation of requests.
 - No program may be recorded more than one time regardless of the number of times it is broadcast.
 - Numerical data sets

Up to 10% or 2500 fields or cell entries, whichever is less, from a copyrighted database or table

 - A field entry is defined as a specific item of information (e.g. name, social security number) in a record of a database file.
 - A cell entry is defined as the intersection where a row and a column meet on a spreadsheet.
 - Internet

Internet resources often combine both copyrighted and public domain sites. Therefore, care should be used in downloading any sites for use in multimedia presentations. Until further clarification, educators and students are advised to write for permission to use Internet resources if they are embedding links to that particular website.
 - Software
 - A copy of a program should not be made without the permission of the producer or copyright owner.
 - A single copy program must be installed on only one computer, unless authorization from the producer or copyright owner is obtained.
 - When licenses are offered by the producer, schools should purchase the licenses and comply to the limitations stated.
 - The law allows one backup or archival copy of the program. It should be kept in limited access area. It may not be used as a second copy on another machine simultaneously.

- No unauthorized copies may be made from a preview copy accepted from a producer.
- Software especially designed to break protection codes must not be purchased.
- Multimedia
 - Copy and distribution limitations
 - Do not post multimedia projects claiming fair use exemption on an unsecured web site. Going public loses the exemption.
 - No more than 2 copies of the original production may be made.
 - Only 1 copy may be placed on reserve for others to use for instructional purposes. The student may keep his copy indefinitely, but the teacher has rights for only 2 years. An additional copy may be made for preservation purposes, but may be used or copied only to replace a copy that has been lost, damaged, or stolen within those two years.
 - If more than one person has created the multimedia presentation, each principal creator may retain only one copy.
 - Alteration limitations
 - Multimedia selections falling within the above guidelines may be altered to illustrate a specific technique or to support a specific instructional objective.
 - Notation of the alteration should be documented within the presentation itself.
 - All materials in a multimedia presentation are subject to copyright law and must adhere to Fair Use guidelines.
 - Permission requirements
 - Permission is required for multimedia projects used for non-educational or commercial purposes.
 - Permission is required for duplication of multimedia projects beyond limitations outlined above.
 - Permission must be obtained for public use beyond the classroom of students' work (Internet, science fairs, conferences, competitions, etc.).
 - Permission must be obtained to use students' personal information on the Internet (name, photo, etc.).

1. Spontaneity

The decision by an individual teacher to use the copyrighted work and the moment of its use are so close in time that it would be unreasonable to expect a reply to a request for permission to reproduce the work.

1. Cumulative effect

- The copying of the work is for only one course.
- There shall not be more than nine instances of such multiple copying for one course during one class term.
- For that course and that term you may copy what is stated in the "Guidelines for brevity" in section D below.

- Each copy must include a notice of copyright.

III. Permission

A. Getting permission for multiple copies

- Making multiple copies of a copyrighted work is permitted for classroom use provided the reproduction meets the tests of Fair Use: brevity, spontaneity and cumulative effect. Each copy must include copyright notice.
- Requests for permission to reproduce multiple copies of a copyrighted work should be submitted to the copyright holder or publisher any time that materials are copied. The request should include: (See Appendix for Request for Permission to Duplicate Copyrighted Materials.)
 - The title, author and/or editor, and edition of the materials to be reproduced
 - The exact material to be reproduced, such as the amount, page numbers, chapter(s) and, if possible, a photocopy of the material
 - The number of copies to be made
 - The use to be made of the copies