

## USE OF COPYRIGHTED WORK

**Policy** It is the policy of the Sherburne School District to respect the personal property of others, whether tangible or intangible, in accordance with the Copyright Act of 1976 as amended (17 U.S.C. §§101-120).

**Background** Federal law protects the control of the distribution of intellectual property, including copyrighted materials. The law provides that the use of copyrighted material, under certain circumstances, is not copyright infringement and the permission of the copyright holder is not required. Duplication of copyrighted materials without written prior permission from the owner is prohibited except under the fair use doctrine articulated in Section 107 of the Act. Assessing fair use is a highly subjective process and for this reason, the Congress has published concrete guidelines for the copying of various media for educational purposes.

### **Implementation**

1. The Superintendent or his or her designee shall develop procedures to implement this policy which may include the federal guidelines published by Congress and other groups with expertise in this area.
  - *"Guidelines for Classroom Copying in Not-for-Profit Educational Institutions"*
  - *""Guidelines for Off-Air Recording of Broadcast Programming for Educational Purposes" (developed by the Kastenmeier Subcommittee of the U.S. House Judiciary Committee in 1979)*
  - *""Guidelines for Educational Uses of Music" published by the Media and Technology Services Area of the North Carolina Department of Public Instruction in 1979.*
  - *"Procedures for the protection of microcomputer software should take into consideration the guidelines developed by the International Council for Computers in Education (University of Oregon, Eugene, Oregon).*

The Congressional guidelines represent the minimum fair use. Should a staff member or student want to use copyrighted materials in a manner that exceeds the guidelines, that individual shall seek permission from the copyright holder using the designated Board-approved permission form.

*[Another option a district may offer - if it has the appropriate resources to carry it out - is to have staff or students pose additional requests for use outside the Congressional guidelines to an individual within the district or to legal counsel to evaluate compliance with fair use.]*

2. The Superintendent (Principal) will assure that students and staff are advised of this policy at least annually and are educated about the use of this policy and its accompanying procedures.

**Student and Staff Responsibilities** All students and staff members are responsible for complying with this policy and its accompanying procedures. Any student or staff member who wilfully fails to seek permission from the copyright owner prior to using copyrighted materials in a manner that exceeds the fair use guidelines shall be considered personally liable for any results of their actions and shall be considered to have acted in violation of this policy.

**Ownership of Work**

1. Employee work: All work completed by employees as part of their employment shall be considered works made for hire. The School Board on behalf of the District shall own any and all rights to such works including any and all derivative works, unless there is a written agreement to the contrary. All work owned by the Board shall be accompanied by a standard copyright notice as set forth in the administrative procedures.
2. Student Work: All work completed by students as a part of the regular instructional program is owned by that student as soon as it is created, unless such work is created while the student is acting as an employee of the school system or unless such work has been paid for under a written agreement with the school system. Such work shall be considered a work made for hire and shall be the property of the School Board. All student work that is owned by the student shall be accompanied by a standard copyright notice. Staff members shall obtain a student's permission prior to distributing his/her work to parties outside the school.

**Violations** Staff members who violate the provisions of this policy shall be considered to have committed misconduct while employed and such misconduct shall be grounds for disciplinary action.

Students who violate the provisions of this policy shall be disciplined in accordance with the student discipline policy.

*Date Warned: 2/12/08*

*Date Adopted: 3/11/08*

Clerk: Jennifer Iannantuoni

*Legal Reference(s): 17 U.S.C. §§101-120 (Copyright Act of 1976 as amended)*

*Cross Reference:*

## **SAMPLE PROCEDURES FOR IMPLEMENTING COPYRIGHT POLICY**

Each staff member is required to:

1. Apply the established Board-approved fair use guidelines (G2-R - P.2 to G2-R-P.6) to the use of copyrighted materials, whether in the classroom or in their own research or in relation to their duties as an employee of the School District;
2. Instruct students, and where appropriate, subordinate staff members on the existence and application of the guidelines;
3. [Request permission from the District's copyright coordinator if a particular use exceeds the guidelines. Such permission shall be in writing and shall call the copyright coordinator no less than 14 days to reply to the request;]
4. Request permission of the copyright owner, using the standard permission form, when the use exceeds the guidelines [or when directed to do so by the District's copyright coordinator];
5. Place a standard notice of copyright on all student-owned materials published or distributed by the school. Such notice shall include the copyright symbol (or the word copyright), the year of creation, the student's first name, and first initial of the student's last name - e.g. © 2001 Sam S.
6. At the direction of the Principal, place a standard notice of copyright on all District-owned materials including, but not limited to curriculum guides, computer programs and websites.

Each student is required to:

1. Follow the Board-approved copyright fair use guidelines;
2. [Request permission from the District's copyright coordinator if a particular use exceeds the guidelines. Such permission shall be in writing and shall call the copyright coordinator no less than 20 days to reply to the request;]
3. Request permission of the copyright owner, using the standard permission form, when the use exceeds the guidelines [or when directed to do so by the District's copyright coordinator];

# GUIDELINES FOR CLASSROOM COPYING FOR NOT-FOR-PROFIT EDUCATIONAL INSTITUTIONS

**Single Copying for Teachers** A single copy may be made of any of the following by or for a teacher at his or her individual request for his or her scholarly research or use in teaching or preparation to teach a class.

- A chapter from a book;
- An article from a periodical or newspaper;
- A short story, short essay or short poem, whether or not from a collective work;
- A chart, graph, diagram, cartoon or picture from a book, periodical, or newspaper.

**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:

- The copying meets the tests of brevity and spontaneity as defined below; and
- Meets the cumulative effect test as defined below; and
- Each copy includes a notice of copyright.

## **Definitions**

### **1. Brevity:**

- ***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.
- ***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% of the work, whichever is less, but in any event a minimum of 500 words. [*Each of the numerical limits stated in (A) and (B) above may be expanded to permit the completion of an unfinished line of a poem or of an unfinished prose paragraph.*]
- ***Illustration:*** (One chart, graph, diagram, drawing, cartoon or picture per book or per periodical issue.
- ***Special works:*** (Certain works in poetry, prose or in "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 250 words in their entirety. Paragraph (ii) 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 of the words found in the text thereof, may be reproduced.

## 2. Spontaneity:

- The copying is at the instance and inspiration of the individual teacher, and
- 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.

## 3. Cumulative Effect:

- The copying of the material is for only one course in the school in which the 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.
- There shall not be more than nine instances of such multiple copying for one course during one class term. *[The limitations stated in (A) and (B) above shall not apply to current news periodicals and newspapers and current news sections of other periodicals.]*

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

1. Copying shall not be used to create or 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:
  - substitute for the purchase of books, publishers' reprints or periodicals;
  - be directed by higher authority;
  - 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.

# **GUIDELINES FOR OFF-AIR RECORDING OF BROADCAST PROGRAMMING FOR EDUCATION PURPOSES**

1. A broadcast program may be recorded off-air simultaneously with broadcast transmission (including simultaneous cable re-transmission) and retained by a non-profit educational institution for a period not to exceed the first forty-five (45) consecutive calendar days after date of recording. Upon conclusion of such retention period, all off-air recordings must be erased or destroyed immediately. "Broadcast programs" are television programs transmitted by television stations for reception by the general public without charge.
2. Off-air recordings may be used once by individual teachers in the course of relevant teaching activities, and repeated once only 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 ten (10) consecutive school days in the forty-five (45) day calendar day retention period. "School days" are school session days -- not counting weekends, holidays, vacations, examination periods, or other scheduled interruptions -- within the forty-five (45) calendar day retention period.
3. Off-air recordings may be made only at the request of and used by 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.
4. 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.
5. After the first ten (10) consecutive school days, off-air recordings may be used up to the end of the forty-five (45) calendar day retention period only for teacher evaluation purposes, i.e., to determine whether or not to include the broadcast program in the teaching curriculum, and may not be used in the recording institution for student exhibition or any other non-evaluation purpose without authorization.
6. Off-air recordings need not be used in their entirety, but the recorded programs may not be altered from their original content. Off-air recordings may not be physically or electronically combined or merged to constitute teaching anthologies or compilations.
7. All copies of off-air recordings must include the copyright notice on the broadcast programs as recorded.

# **GUIDELINES FOR EDUCATIONAL USES OF MUSIC**

## **Permissible Uses**

- I. Emergency copying to replace purchased copies which for any reason are not available for an imminent performance provided purchased replacement copies shall be substituted in due course.
- II. A. For academic purposes other than performance, 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 unit able to be performed such as a section, movement or aria, but in no case more than 10% of the whole work. The number of copies shall not exceed one copy per pupil.  
  
B. For academic purposes other than performance, a single copy of an entire unit that can be performed (section, movement, aria, etc.) that is, (1) confirmed by the copyright proprietor to be out of print or (2) unavailable except in a larger work, may be made by or for a teacher solely for the purpose of his or her scholarly research or in preparation to teach a class.
- III. 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.
- IV. 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 teachers.
- V. A single copy of a sound recording (such as a tape, disc or cassette) or 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 teachers. (This pertains only to the copyright of the music itself and not to any copyright which may exist in the sound recording.)

## **Prohibitions**

1. Copying to create or replace or substitute for anthologies, compilations or collective works.
2. 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.
3. Copying for the purpose of performance, except as in A(1) above.
4. Copying for the purpose of substituting for the purchase of music, except as in A(1) and A (2) above.
5. Copying without inclusion of the copyright notice which appears on the printed copy.

# **GUIDELINES ON SOFTWARE COPYRIGHT**

## **Procedures for Protection of Software Copyright:**

1. District employees will back-up copies of computer programs only when:

- The new copy or adaptation is created as an essential step in the utilization of the computer program in conjunction with a machine and that it is used in no other manner, or
  - The new copy and 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.
  - No copies of software shall be made when that software is used on a disk sharing system.
  - Illegal copies of copyrighted programs may not be made or used on school equipment.
  - The legal or insurance protection of the District will not be extended to employees who violate copyright laws.

The Principal is the only individual who may sign license agreements for software for the school.

# SAMPLE COPYRIGHT PERMISSION FORM

(on the school's letterhead) Permissions Department Copyright Owner Address Dear Permissions Editor:

Our school is requesting permission to use the following material: [describe work including title, author, date of publication and pages you wish to use. Attach a copy of the material if possible.]. A copy is attached for your reference. Specifically, we would like to [describe how you want to use the material; e.g. reprint, photocopy, publish on-line, use in a multimedia work, etc.] We will be distributing or publishing the material [describe distribution method, the audience, length of finished publication, dates of distribution and whether any fee will be involved.]

If you are not the sole owner in the rights to this work, kindly provide information about other copyright owners including the addresses of persons from whom I should request permission.

If you wish the work to include a specific copyright notice, please include that notice below:

Sincerely,

Signature

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Please sign the statement below and return in the stamped self-addressed envelope that is enclosed for your convenience. \_\_\_\_\_ This request has been APPROVED, and my signature indicates that I have the authority to grant the permission requested.

\_\_\_\_\_ This approval is limited in the following respects: [Add any limiting language or requirements here.]

\_\_\_\_\_

\_\_\_\_\_ The request has been DENIED.

Name (Please Print) \_\_\_\_\_ Title

Signature \_\_\_\_\_ Date

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