

NEWTON

PUBLIC SCHOOLS

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Copyright Policy: Compliance with the 1976 United States Copyright Law

I. DISTRICT POLICY

The Newton Public Schools and all of its employees are subject to the provisions of the Copyright Act of 1976. Teachers, administrators, and other district personnel will take an active role in assuring compliance with the United States copyright law and congressional guidelines.

The Newton Public Schools does not sanction illegal use or duplication in any form. Unlawful copies of copyrighted materials may not be produced or used on district-owned equipment, within district-owned facilities, or at district-sponsored functions. Employees who violate the district's copyright policies do so at their own risk and may be required to reimburse the district in the event of financial loss.

II. RESPONSIBILITIES OF DISTRICT PERSONNEL

A. Establishing Procedures

Principals or administrators are responsible for establishing procedures that will enforce the copyright law at the school or office site. They are to present copyright policies to staff members periodically as a reminder of their rights and responsibilities under the law. Attachment A provides sample scenarios to stimulate discussion.

B. Photocopying machines and recording devices

Personnel in charge of recording machines and recording devices are to ensure that those who use the equipment are aware that it is illegal to infringe upon copyright. A notice entitled "Warning Concerning Copyright Restrictions" is required by law to be displayed prominently at places where orders for copies of materials are accepted. The wording and format of the notice required by law appear in Attachment B. This notice is also required by law on any form that is used to request copying service.

The following notice is to be posted on video recorders and computers to educate and warn personnel about the existence of the copyright law: **MANY VIDEOTAPED MATERIALS AND COMPUTER PROGRAMS ARE PROTECTED BY COPYRIGHT, 17 U.S.C. SECTION 101. UNAUTHORIZED COPYING MAY BE PROHIBITED BY LAW.**

- C. Computer Software License Agreements
All schools and offices must maintain a file of their computer software site license agreements or contracts. The district Information Technology Department will maintain a file of all district-wide computer software site license agreements and contracts.

III. BACKGROUND

The U.S. joined the Berne Convention, an international copyright treaty, in 1989. Since Berne does not require formal copyright notices on works, the U.S. no longer requires it. This means that works should be considered copyrighted if they are fixed in a tangible medium even if not copyright notice is included unless one knows for sure that they are in the public domain, i.e., they are no longer under copyright protection or never have been copyrighted. For example, Shakespeare's *Romeo and Juliet* is in the public domain. However, a rendering of the play in modern English, unless it is in the public domain, should be considered copyrighted even if there is no copyright notice. A work may be literary, musical, dramatic, pantomime, choreographic, pictorial, graphic, sculptural motion picture, other audiovisual, sound recording, or architectural.

A related topic to consider is public domain works incorporated into copyrighted works. The public domain sections of the work may be used; the copyrighted materials may be used only in accordance with the Copyright Act's provisions, e.g., Section 107, fair use. Example: In an annotated version of *Romeo and Juliet*, the actual original play is still in public domain and may be used. The annotation, however, may be copyrighted. If the annotation is copyrighted, it may only be used within the law's limits such as fair use.

IV. FAIR USE

Section 107 identifies four criteria for judging fair use of copyrighted works for purposes such as criticism, scholarship, research, and teaching:

The purpose and character of the use, e.g., profit or nonprofit educational purposes; the nature of the copyrighted work, e.g., fiction or nonfiction; the amount and substantiality of the portion used; e.g., one sentence from a novel or eight lines from a sonnet; and, the effect of the use upon the potential market.

To further clarify these criteria, various fair use guidelines have been formulated and approved by various publishers, producers, and educational organizations. These guidelines are not part of the Copyright Act, but do serve as indicators of acceptable, "safe harbor" usages.

V. FAIR USE GUIDELINES FOR CLASSROOM COPYING: BOOKS AND PERIODICALS

A. Single Copies for Teachers

For the purposes of scholarly research, teaching, or preparation to teach a class, a teacher may make a copy (or request a copy be made) of a book chapter;

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

B. Multiple Copies for Classroom Use

Multiple copies, i.e., one copy per pupil in a class, may be made by or for the teacher presenting the course for classroom use provided that the copying meets the tests of brevity, spontaneity, and cumulative effect and includes a copyright notice.

1. Brevity

- a. Poetry: Maximum of 250 words. This may be a complete poem if printed on one to two pages or an excerpt from a longer poem.
- b. Prose: A complete article, story, or essay of less than 2,500; an excerpt of not more than 1,000 words or 10% of the work, whichever is less. However, works combining language and illustrations, such as picture books, which fall short of 2,500 words in their entirety, may NOT be reproduced in their entirety. Personnel may copy not more than two published pages containing less than 10% of the words found in the text.

2. Spontaneity

- a. An individual teacher requests the copying NOT the department, school, district, etc.
- b. The decision to use the work with a class and the date on which the copy is used are close together, permission to copy would not be received in time.

3. Cumulative Effect

- a. The copied material is for only one course in the school.
- b. During a class term, only one short poem, article, story, essay, or two excerpts from the same author may be copied; no more than three from the same collective work.
- c. During a class term, no more than 9 instances of multiple copying for one course.
- d. The last two limitations above do not apply to current news periodicals, newspapers, and current news sections of other periodicals.

3. Prohibitions

- a. No copying to create or substitute for anthologies, compilations, or collective works.

- b. No copying of consumables, e.g., workbooks, exercises, standardized tests, answer sheets.
- c. No copying to substitute for actual purchases of books, reprints, or periodicals.
- d. No copying because higher authority directed it.
- e. No copying the same item from semester to semester.

VI. FAIR USE GUIDELINES FOR MUSIC

A. Permissible Use

- 1. Emergency copying for an imminent performance provided purchased replacement copies shall be substituted in a timely manner.
- 2. Multiple copies (i.e., one per student) of excerpts not constituting an entire performance unit or more than 10% of the whole work.
- 3. Purchased sheet music edited or simplified provided the character of the work is not distorted or the lyrics altered or added if none existed.
- 3. A single copy of a recorded performance by students to be retained by the school or individual teacher for evaluation or rehearsal purposes.
- 4. A single copy of a recording of copyrighted music owned by the school or an individual teacher for constructing exercises or examinations and retained by the school or the teacher.

B. Prohibitions

- 1. Copying to create, replace, or substitute for anthologies, compilations, or collected works.
- 2. Copying works intended to be consumable, e.g., workbooks, exercises, standardized tests, and answer sheets.
- 3. Copying for the purpose of performance, except in emergencies as noted above.
- 4. Copying to substitute for purchase of music.
- 5. Copying without inclusion of the copyright notice on the copy.

VII. FAIR USE GUIDELINES FOR OFF-AIR VIDEOTAPING

Broadcast Television

- A. Broadcast programs, i.e., television programs transmitted by television stations for reception by the general public without charge, may be recorded off-air simultaneously with broadcast transmission, including simultaneous cable transmission. Copying programs from pay TV services such as HBO and the Disney Channel is illegal unless permission is obtained.
- B. Videotaped recordings may be kept for no more than 45 calendar days after the recording date, at which time the tapes must be erased.

- C. Videotaped recordings may be shown to students only within the first 10 consecutive school days of the 45-day retention period. Afterwards, they may be used for evaluation purposes only.
- D. Off-air recordings need not be used in their entirety, but the recorded programs may not be altered from their original content or combined for teaching anthologies or compilations.
- E. Schools and offices are expected to establish appropriate control procedures to maintain the integrity of these guidelines. As ample off-air recording form appears in Attachment C.
- F. An individual teacher must make requests for off-air videotaping. No program may be recorded off-air more than once at the request of the same teacher no matter how many times the program may be broadcast.

VIII. GUIDELINES FOR THE USE OF VIDEOTAPES AND FILMS

For videos and films rented, sold or taped at home, copyright law provisions and District policies must be followed.

- A. They must be shown as part of a systematic course of instruction in face-to-face teaching activities and not for recreational, entertainment, or fund-raising purposes without a public performance license.
- B. Videocassettes of copyrighted materials, even though labeled “for home use only,” may be used for classroom teaching purposes pursuant to Section 110(1) of the copyright law.
- C. All educational off-taping guidelines apply to at-home taping when tapes are brought to school for classroom instruction.
- D. For videos taped at home, a record keeping system that guarantees compliance with the federal guidelines is to be developed at the school site.
- E. Videocassettes borrowed from the District’s Video Library or purchased by an office or school site may not be copied.

IX. GUIDELINES FOR THE USE OF COMPUTER SOFTWARE

- A. Staff members and students are to be made aware of the legal, ethical, and practical problems caused by software piracy and illegal access to any database, electronic bulletin board, Web site, CD-ROM, DVD, or similar electronic delivery format.

- B. It is permissible to make a backup copy of a legally owned software program to keep as an archival copy in the event the original disk fails to function. Archival copies cannot be used on a second computer at the same time the original is in use.
- C. Loading the contents of one disk or CD-ROM into multiple computers for use at the same time is prohibited without a special license, lab pack arrangement, or permission from the copyright owner.
- D. Software programs may be distributed via a LAN (Local Area Network) or WAN (Wide Area Network) only if the copyright owner's permission has been obtained.
- E. Loading a CD-ROM into a hard drive in order to increase the speed of information retrieval requires permission from the copyright owner.
- F. When software is to be used on a file-serving system, efforts must be made to prevent this software from being copied.

X. FAIR USE GUIDELINES FOR EDUCATIONAL MULTIMEDIA

NOTE: Adopted September 27, 1996, by the U.S. House of Representatives, Subcommittee on Courts and Intellectual Property, as a nonlegislative report. These guidelines refer to multimedia projects created by students and teachers for their own use to meet specific instructional objectives.

In general, the portions used must be from lawfully acquired copyrighted works. The multimedia projects created incorporate the copyrighted material with the student's or teacher's original materials. Other fair use guidelines may apply in specific cases, e.g., those for off-air videotaping.

A. Students

1. May incorporate portions of lawfully acquired copyrighted works into their multimedia projects for a specific course.
2. May perform and display these projects in the course for which they were created.
3. May keep them in their portfolios as examples of their academic work.
4. Need to follow the copyright guidelines.
5. The portion limitations apply cumulatively to each student's project(s) for the same academic semester, cycle, or term.

B. Teachers

1. May incorporate portions of lawfully acquired copyrighted works into multimedia programs they create to support their curriculum-based instructional activities.

2. May perform and display these programs to students in face-to-face instruction or as assigned, directed self-study.
3. May perform or display these programs at workshops and conferences for their peers.
4. May retain a copy of these programs for their personal portfolios.
5. The portion limitations apply cumulatively to each teacher's project(s) for the same academic semester, track, cycle, or term.

C. Time, Portion, Copying, and Distribution Limitations

1. Time

Teachers may use their educational multimedia projects for teaching for up to two years after the first instructional use with a class. After that, permission must be obtained for each copyrighted portion included in the program.

2. Portion

- a. Motion media: 10% or three minutes, whichever is less.
- b. Text material: 10% or 1000 words, whichever is less; entire poem of less than 250 words but no more than three poems by one poet or five poems by different poets from any anthology; for longer poems, 250 words may be used, but only three excerpts by a poet or five excerpts by different poets from a single anthology.
- c. Music, lyrics, and music video: Up to 10%, but no more than 30 seconds from an individual music work or the total extracts from an individual work; any alterations to the musical work should not change the basic melody or the fundamental character of the work.
- d. Illustrations and photographs: No more than five images by an artist or photographer; when from a published collective work, not more than 10% or 15 images, whichever is less.
- e. Numerical data sets: 10% or 2500 fields or cell entries, whichever is less, from a copyrighted database or data table (Field entry is a specific item of information such as a name or Social Security number in a database record. Cell entry is the intersection of a row and column in a spreadsheet.)

3. Copying and Distribution

Teachers may make no more than two copies of their multimedia programs, only one of which may be placed on reserve in, e.g., the library media center or computer lab. An archival copy may be made, but only used or copied to replace a lost, stolen, or damaged copy.

4. Ask for Permission
 - a. When teachers or students want to commercially reproduce and distribute their project(s).
 - b. For use for use of projects over electronic networks.
5. Reminders
 - a. Apply caution when incorporating works downloaded from the Internet.
 - b. Credit sources and display the copyright notice. Give the full bibliographic citation. The copyright notice includes ©, year of first publication, and the name of the copyright holder, e.g. Copyright © 1998 by Newton Public Schools.
 - c. Include a notice on the opening screen that certain materials are used under fair use and are restricted from further use.
 - d. These guidelines do not preempt licenses or contracts.

XI. GUIDELINES FOR USE OF THE INTERNET

- A. Users of the Newton Public Schools network are bound by the Newton Public Schools *Employee Computer, Software, Network, Internet, and E-mail Use Policy and Rules*.
- B. The author of an E-mail message effectively owns the copyright in the message. Therefore, E-mail messages should not be posted to discussion groups, newsgroups, and the like without permission of the author.
- C. Duplicating a World Wide Web site, or portion of a site, for use in another Web site is prohibited without the explicit permission of the author.
- D. Before creating a link to another Web site, it is considered courteous to request permission from that site's owner.
- E. When creating a World Wide Web site for school, pictures or text that have a copyright may not be used without the permission of the copyright owner.

XII. REQUESTING PERMISSION TO USE COPYRIGHTED MATERIALS

Beyond the limits of fair use, educators must request permission to use copyrighted materials. Most copyright owners will grant permission for one-time use of parts of their works without charge or upon payment of a minimal fee. Blanket permission should not be requested. Such permission cannot, in most cases, be granted. A sample request for permission appears in Attachment D.

For further information, please call Shelley Chamberlain, Director of Information Technology at (617) 559-619

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ATTACHMENT A

Sample Copyright Scenarios

1. Q. A teacher wants to load a computer program on all ten of the computers in the library for a special lesson. Is this permissible?
A. No. To load a software program on all 10 computers requires a site license, lab pack arrangement, or permission from the copyright owner.
2. Q. A workbook accompanies the textbook adopted for use in a class. May the teacher make class sets of several pages of the workbook?
A. No. Copying consumables is prohibited under the fair use guidelines.
3. Q. Knowing that graphics help capture attention, a teacher includes an appropriate strip from “Zits” (a copyrighted comic strip) on an assignment sheet. Is this permissible?
A. Not without permission from the comic strip’s copyright owner. However, graphics from *Print Shop and* similar clip art programs that the district has purchased may be used.
4. Q. May a teacher caption a television show taped off the air?
A. Not without permission of the copyright owner.
5. Q. May a teacher show a videotape labeled “home use only” to a class?
A. Teachers may show videotapes labeled “home use only” in class as long as the video is part of a systematic course of instruction and not for recreational, entertainment, or fundraising purposes. It is important, however, to note that many retail video rental stores have strict license agreements prohibiting use with large, non-home audiences, which includes classrooms. These restrictions may also apply to the use of videos purchased for home use. Staff is expected to review and honor these agreements because they constitute a contract with specific requirements for use of the video.
6. Q. The school purchases an instructional program that includes audiocassettes. May a back up copy of the audiocassettes be made?
A. No.

7. Q. Tonight, ABC is airing a special about World War I. May a teacher request that the show be taped off-the-air for use tomorrow in class? May the history department chairperson request the show be taped off the air in case someone in the department wants to show the special at a later date?
- A. As per the fair use guidelines, a teacher may request that a program broadcast for reception by the general public be taped off the air for use within the first 10 consecutive school days of the 45-day retention period. The history department chairperson may not request the taping “just in case” someone might want to show it.
8. Q. Tonight the History Channel is airing a special about World War I. May a teacher request that the show be taped off the air for use in class later in the week?
- A. No. The History Channel is a subscription-based channel. It does not broadcast programs for reception by the general public.
9. Q. A teacher finds a chart in *Newsweek* that fits in nicely with a unit to be covered next semester. May the teacher make a class set of the chart?
- A. No. This does not meet the “spontaneity” requirement of the fair use guidelines for multiple copies for classroom use. In this case, the teacher has enough time to contact *Newsweek* and request permission to use the chart.
10. Q. A teacher wants to enlarge a book cover illustration for bulletin board decoration. May the teacher do so using an opaque projector?
- A. No. The book cover illustration is copyrighted.

Newton Public Schools

Attachment B

NOTICE

WARNING CONCERNING COPYRIGHT RESTRICTIONS

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 specified 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.

This institution reserves the right to refuse to accept a copying order if, in its judgment, fulfillment of the order would involve violation of copyright law.

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ATTACHMENT C

(SAMPLE FORM)

NEWTON PUBLIC SCHOOLS

_____ SCHOOL

RECORD OF OFF-AIR RECORDINGS

PROGRAM TITLE: _____

REQUESTED BY: _____

DATE: _____

TIME PROGRAM WILL AIR: _____

CHANNEL: _____

Recording must be used within 10 school days as stated in the Newton Public Schools *Copyright Policy: Compliance with the 1976 United States Copyright Law*. The usage dates for this video are between _____ (date) and _____ (date), unless other arrangements have been made with the copyright holder.

Recorded by: _____

Erased by: _____

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ATTACHMENT D

SAMPLE FORM
(School or Office Letterhead)

Date _____

Permissions Department

Name _____

Address _____

Dear _____:

Permission is requested to copy the following copyrighted materials for use during the _____ semester in my _____ class at _____ School:

- Title: _____
- Author(s) and/or editors: _____
- Description of material to be copied:

- Number of copies to be made: _____
- Use of copies: _____

- Distribution of copies: _____
- Whether materials will be sold: _____
- Type of reproduction: _____

Thank you for your consideration of this request. For your convenience, enclosed is a copy of this request for your files and a stamped, self-addressed return envelope. Please notify me of there will be a charge for granting permission to duplicate the material.

Sincerely,
Name of faculty or staff member _____

PUBLISHER/PRODUCER REPLY

Title of material: _____

Permission granted: _____ Permission denied: _____

Conditions or details (if any) _____

Signature: _____ Date: _____