

# COPYRIGHT

## Copyright Manual for Educators and Staff

This Copyright Manual is incorporated by reference in School Board Policy 2531 – Copyrighted Works.

Any reproduction or display of copyrighted materials shall be done either with permission of the copyright owner or within the bounds of the "fair use" doctrine of the copyright law; otherwise, the individual responsible for such reproduction may be liable for breach of copyright under existing laws, and may be subject to discipline in accordance with School Board Policy. With this policy employees have been informed and provided with the necessary copyright information to help them make informed copyright use decisions.

### HISTORIC PERSPECTIVE

The Copyright Law of 1976, effective January 1, 1978, was the first general revision of the Copyright Law since 1909. The "Fair Use Guidelines for Off-Air Taping" came into effect on October 14, 1981. These guidelines are not law, but merely a result of a congressional committee report. However, they carry the weight of the law and will probably be up-held in the courts, if challenged. [ADD A REFERENCE TO THE CODE OF BEST PRACTICES]

### DISCLAIMER

These guidelines contained herein reflect the informed opinion of copyright experts in the field of law and education, but do not constitute legal advice. However, copyright experts from across the United States have reviewed these guidelines, finding them to be appropriate and in the best interest of a nonprofit educational institution.

### GENERAL CONCEPTS

**PERMISSION TO COPY** Any part of this guide may be reproduced by and for staff members in Pinellas County Schools. Others may address their requests to the office of library media/technology.

**COPYRIGHT** Copyright is a property right to materials written and produced by authors. Its duration is the life of the author and 50 additional years.

**COPYRIGHT FUNDAMENTALS** To provide the AUTHOR the sole right to: 1. make authorized copies; 2. prepare adaptations, translations, or abridged versions; 3. distribute copies; 4. give public performances; 5. display works.

**DISTRICT CONTACT** The Superintendent has provided that the Office of library media/technology be the District contact for copyright.

**BUILDING-LEVEL CONTACT** The school library information specialist is to be the building-level contact who shall disseminate copyright materials and who with the approval of the principal, shall develop and implement building-level copyright guidelines.

**COPYRIGHT NOTICES** Copyright notices must be placed on or near all equipment that is capable of reproducing copyrighted materials (for example, copy machines, fax machines, and scanners)..

**DOCUMENTATION** It is recommended that a record of questions be kept at the District and building levels. In the event of a law suit, this information could provide the court with proof that Pinellas County Schools is making a conscientious effort to comply with the copyright laws. This documentation should include, but is not limited to: date of inquiry, inquirer, question, answer and source of answer.

**TO DETERMINE "FAIR USE" FOR EDUCATORS, APPLY THESE FACTORS:**

1. Purpose and character of use: is use for profit or face-to-face teaching? 2. What is the nature of the work? What format? 3. What is the amount to be copied in relation to the whole? (Brevity) 4. What is the effect of use on the potential sales market? Utilize PCS Fair Use Form in this handbook (Fair Use Checklist of Copyrighted Material).

**TO DETERMINE "FACE-TO-FACE TEACHING," APPLY THESE FACTORS:**

1. Performed at a nonprofit educational institution. 2. Conducted by a teacher or student. Parents and guests are granted the same privileges when acting as teachers. 3. In a classroom or facsimile. 4. Must be face-to-face where student is earning a grade. 5. Must be educational in nature - not for entertainment, reward, or behavior modification purposes. Any other performance is considered a public performance for which performance rights must be purchased or be acquired in writing from the copyright owner.

**"PERFORMANCE"** To "perform" a work means to recite, render, play, dance, or act it either directly or by means of any device or process.

**SPONTANEITY** Copying must be at the instance and inspiration of the individual teacher and so close to time of desired use that there is not time enough to receive a reply to a request for permission.

**CUMULATIVE EFFECT** (In reference to Classroom Photocopying) 1. Copying of material can be made for one course only. 2. Not more than 2 excerpts per author may be used. 3. Not more than 3 excerpts from a collective work or periodical may be used. 4. Not more than 9 instances of such multiple copying for one class term may be used.

**CREATIVE ESSENCE** That element which is very unique or creative as different from simply another representation of an already generally known concept or expression. (e.g.: a film about the evolution of a butterfly - the butterfly emerging from the cocoon would be the creative essence.)

**SPECIAL PERMISSION** Permission must be obtained in writing from any copyright owner to copy or use whatever staff members may desire to reproduce or use.

## **Audiovisual Works**

### **AUDIO**

#### **Permitted**

1. Duplicating visual or audio materials from a non-dramatic literary work in order to provide materials for the deaf or the blind is permissible.

#### **Not Permitted**

A teacher may not duplicate tapes of a non-dramatic literary work.

Audio recordings may not be duplicated from one format to another unless under appropriate provisions such as the purchase of duplication rights.

Entire literary stories may not be narrated onto an audio cassette by a teacher.

Phonographs or phonodiscs may not be converted to audio cassettes.

Duplication of audio recordings for archival, backup or for multiple uses, unless reproduction rights were given at the time of purchase.

Reproduction of musical works (e.g. records, tapes, CDs) or converted from one form to another, such as a record to a tape unless such rights have been acquired from the copyright holder.

Reproduction of any audiovisual work in its entirety, except for off-air videotaping as per the guidelines found in the Video section of this guide.

The conversion of one media format into another, i.e.. 16mm film to videotape, with the exception those copies of old motion picture films, subject to deterioration, (mainly pre-1942) may be made for archival preservation.

Narrating entire stories onto audio tape.

## **Print Materials**

### **SINGLE COPYING FOR TEACHERS**

A single copy may be made of any of the following by or for a teacher at his/her individual request for his/her scholarly research to 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, drawing, non-syndicated cartoon or picture from a book, periodical, or newspaper.

### **MULTIPLE COPIES FOR CLASSROOM USE**

A teacher may make multiple copies for classroom use if the copying meets the tests for brevity, spontaneity and cumulative effect.

#### **Permitted**

Multiple copies (not to exceed one per pupil) may be made by or for a teacher teaching the course for classroom use or discussion as follows:

A complete poem, if less than 250 words and if printed on not more than two pages;

A 250 word excerpt from a longer poem;

A complete article, story or essay of less than 2,500 words;

An excerpt of 10% of a longer prose work or 1,000 words, whichever is less;

Illustration: one chart, graph, diagram, drawing, non-syndicated cartoon, or picture per book or periodical;

Each copy should include the notice of copyright.

#### **Not Permitted**

Copies may not be used to create anthologies, compilations, or collective works (this would include curriculum guides);

Consumable materials such as workbooks, tests and answer sheets may not be copied;

Copying may not be used to substitute for purchasing;

Copying may not be directed by a higher authority (such as a principal, supervisor, administrator);

Copying may not be repeated with respect to the same item by the same teacher from term to term;

The student may not be charged more than the actual costs of the photocopying;

Syndicated cartoons or cartoon characters may not be duplicated or print materials enlarged; e.g.:  
Peanuts, Mickey Mouse, Donald Duck, etc.;

## **MOTION PICTURES/VIDEO PRODUCTIONS**

### **Permitted**

1. Schools with certain types of non-restricted video may transmit films over closed-circuit television systems, unless such showing is prohibited by the producer.

### **Not Permitted**

A video production may not be copied in its entirety.

A video production may not be converted to videotape.

Educational films, including those circulated by the office of

Library media/technology may not be shown for entertainment, reward, or behavior modification purposes.

Films provided for loan from a public or academic library may not be used in our schools unless the distributor has cleared the films for educational use and the films are used for face-to-face educational purposes. Clearwater Public Library has a list of films that may be used in our schools. See the audiovisual librarian.

The creative essence of a work may not be copied.

## **Computer Software**

1. Copies may be made or adapted in order to use a program in conjunction with a machine.

2. A copy may be made for archival purposes. For example: a program may be reproduced, the original copy archived and the copy that was made can become the working copy. Upon damage of

the working copy, the original archive copy should become the working copy. Unless specified, only one copy of the original work may be made. The transfer of a program from the supply format to the hard drive is generally permitted

. The hard drive versions may become the working copies with the original purchased media being designated archival copies. Please note, however, that access by users to this software may only be by means of the one computer. Networking other computers or terminals to the one hard drive would be considered an infringement unless a networking license was obtained for each piece of copyrighted software placed on the hard drive. In addition, the preceding would apply to software that was purchased outright. (Not licensed software, unless the agreement permitted such activity.)

Copies may not be made to be used on a second machine at the same time as the original as in the case of computer networks.

Copies may not be made to avoid the purchase of a program. This includes making multiple copies of a program purchased by a single department or school. If there are to be multiple users of a program, duplication rights should be negotiated at the time of purchase.

### **Networking and Multiple Machine Loading**

Requires a network license for networking software and the purchase of multiple copies (1 for each computer) if the same program is going to be used on multiple stand-alone computers.

Most companies clearly state that fact in their promotional literature. They have added further protection by requiring the signing of a network license, which clearly states the limitations of use. License agreements supersede any privileges provided in the Copyright Law.

### **Downloading From Remote Databases**

Libraries and educational institutions are now finding with the use of modems and telecommunications, the ability to reach out and access electronic information from a variety of sources. These sources are often in the form of databases which are protected by copyright law. Downloading involves the transfer of the information to some type of device in which the information can be utilized. Examples of such devices might be a microcomputer, a hard drive or printer. The regulations pertaining to the access and downloading of information obtained from remote databases will usually be defined in a contract with the vendor of the specific database. The contracts usually include such items as charges for "connect time," the number of citations accessed or printed, the downloading of an entire document and other conditions. If working with a vendor/jobber for multiple databases, the contract may have different stipulations depending on the database being utilized. There are no exemptions in the law, for libraries or educational institutions, permitting downloading of database information. Due to the fact that there are no exemptions, it would be appropriate to abide by the following guidelines:

Carefully review contracts or license agreements and be aware of all conditions between your library or educational institution and the vendor.

Do not retain extra or archival copies of a downloaded search. By doing so, one is avoiding the connect time charges and citation fees upon which the vendor derives remuneration for their efforts in providing such resources. This directly relates to the fourth criteria under Fair Use in which the user may be depriving the copyright holder of the potential market or value of their work. It would be permissible to record your search strategies for future reference.

The material downloaded may not be used to create a derivative work, especially if for financial gain.

If providing direct access to searches by students or library patrons, they should be informed of the conditions of the database contract they are searching. Posting of appropriate notices near the access station or providing a hand-out sheet to the user is recommended.

Consider the possible purchase of identical or similar database sources on CD-ROM which might prove to be less costly and would provide the ability to print citations without incurring charges.

## **CD/DVD Technology**

<http://www.pinellas.k12.fl.us/lmt/Copyright/copyright.htm>

CD/DVD and emerging storage mediums provide for large amounts of printed and graphic material leading to the release of bibliographic and research based source materials. When an institution purchases such an item, the database may be accessed as a reference source. As such, faculty and students may copy sections as per the guidelines for the reproduction of the other printed materials for the purpose of research and teaching, unless the copyright owner has restricted such use. Keep in mind that all copies or print-outs become the property of the patron or student, not the library.

In terms of networking, a question has arisen as to the possibility of networking multiple computers to access one CD/DVD and emerging storage mediums. Currently, the consensus of legal interpretations is that unless the database information is in the public domain, this would be considered an infringement in lieu of the purchase of multiple copies for more than one reference station. What would be required would be the purchase of a network license for each CD/DVD product placed on the network.

In addition to the network license, there are some vendors who are licensing, rather than selling, standalone application packages. Since contract law supersedes copyright, the following need to be taken into consideration when purchasing CD/DVD products:

Carefully read all contracts prior to purchase. Make sure the conditions under which you wish to use the materials are covered. Do not hesitate to negotiate the rights that are desired. It is much

more difficult to do so after purchase. As examples, you may desire to network or to maintain use of older editions when new editions are released.

If you currently own CD/DVD products, carefully review any contracts for specific conditions or limitations on use and also note such conditions if they exist in the vendor's purchasing catalog or advertising sheet.

## **Use of Video Images**

There are a number of storage mediums on which both still and moving images may be stored. These are considered audiovisual mediums protected under copyright. It should be kept in perspective that although as technologies become more sophisticated and provide the user with greater ease with which to copy and merge with other technologies, that the technical capability to capture audio and video images does not diminish an author's rights in his/her creative material. As with other mediums qualifying for copyright protection, one may only copy, prepare a derivative work, sell or lease, publicly perform or display under specific exemptions in the law or under fair use circumstances. Otherwise, rights must be obtained from the copyright holder.

Similar to the general video medium, if a small portion was copied and was used in part of a larger work in which the copied portion constituted a very small part and the copied portion was not of a highly original nature, the application might fall under fair use. Copying a single image from a source to be incorporated into a video segment produced by a student to meet a classroom requirement might well be considered a fair use application. Extensive copying of such images would not.

## **Transparencies for Overhead Projection**

Transparencies may be created from one source or multiple sources, not to exceed 10% of the work. One transparency may be created from one page of a consumable item such as a <http://www.pinellas.k12.fl.us/lmt/Copyright/copyright.htm> workbook, exercise, standardized test, test booklet or answer sheet.

## **Music**

### **Permitted**

Emergency copying to replace purchased copy for a performance.

For teaching purposes, single or multiple copies of excerpts of works that would not constitute a performable unit such as a section, movement or aria, but not more than 10% of the whole work.



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.

A single copy of a recording of a performance by students may be made for evaluation or rehearsal purposes and may be retained.

A single copy of a sound recording of copyrighted music may be made from sound recordings owned by the school or an individual teacher for the purpose of testing and may be retained.

The copyright notice must appear on authorized copies.

### **Not Permitted**

Copying to create or replace or substitute for anthologies, compilations or collective works.

Copying of or from works intended to be consumable.

Copying for the purpose of performance, except as in #1 under Permitted. It is not permissible to make copies in order to provide extra parts for one instrument. Nor is it permissible to make copies for contests or for choral or speaking parts for musical plays. Additional copies need to be purchased or duplication rights negotiated.

Copying for the purpose of substituting for the purchase of music, except as in #1 under "Permitted".

Copying without inclusion of the copyright notice which appears on the printed copy.

### **Local Video Productions**

#### **SOUND/SLIDE AND VIDEO PRODUCTIONS**

At least one picture, photograph, drawing, etc. may be taken from films, photographs and/or sources to create a video production, as long as what was taken is not the creative essence of the author's work. Copying more than one item from a source is questionable under Fair Use, but possibly may be permitted.

Any photograph clearly labeled as being copyrighted MAY NOT be duplicated. These photographs will include the name of the photographer.

#### **USE OF COPYRIGHTED MUSIC WITH VIDEO PRODUCTIONS**

Teachers, parents and students may not use copyrighted music with their video productions without written permission from the copyright owner.

Authorized use of copyrighted music should include the copyright statement.

**VIDEOTAPING OF LOCAL VIDEO PRODUCTIONS** Performance of copyrighted productions such as plays, skits, concerts and choral productions may be video recorded ONLY for the purpose of review evaluation, or rehearsal but MAY NOT BE RETAINED by the school, the teacher or the student.

NOTE: See using copyright materials in multi-media productions where limited use of audio/video and graphics is permitted for both faculty and student use.

### **Using Copyrighted Material in Multi-Media Productions**

(Taken from Copyright: A Guide to Information and Resources, 3rd Edition, 2003, Gary H. Becker, with permission of the author)

#### **User Limitations:**

Students may create, perform and display multimedia productions, for educational uses, only in the course for which it was created and may retain for portfolio use.

Educators may create, perform and display multimedia productions for educational uses, for the purposes of face- to-face instruction, assigning students to self-study, for remote instruction to students, at peer conferences and may retain for their professional portfolio.

#### **Time Limitations:**

Students may only use their productions for and during the course for which it was prepared. However, they may retain, indefinitely, for their personal portfolio.

Educators may use their productions up to two years after the first instructional use with a class. It may be retained indefinitely for portfolio use.

#### **Portion Limitations Motion Media:**

1. May take up to 10% or 3 minutes, whichever is less, in the aggregate, of a copyrighted motion media work

#### **Portion Limitations Text Material:**

May take up to 10% or 1,000 words, whichever is less, in the aggregate, from a copyrighted work consisting of text material

May use an entire poem of 250 words or less; no more than three poems from one poet or five poems from different poets from an anthology

Poems longer than 250 words, may use 250 words, but no more than 3 excerpts by a poet, or 5 excerpts from different poets from a single anthology

### **Portion Limitations Music, Lyrics, Music Video:**

The user may use up to 10% or a maximum of 30 seconds of the music and lyrics from an individual musical work (or in the aggregate of extracts from an individual work).

Any alterations to a musical work shall not change the basic melody or the fundamental character of the work.

<http://www.pinellas.k12.fl.us/lmt/Copyright/copyright.htm>

### **Portion Limitations Illustrations & Photographs:**

When using photographs or illustrations from a published collective work, not more than 10% or 15 images, whichever is less, may be used

No more than 5 images by an artist or photographer may be used

### **Portion Limitations Numerical Data Sets:**

1. May take up to 10% or 2500 fields, whichever is less, from a copyrighted database or data table

### **Copy Limits:**

Educators may make two use copies of the work they produced, only one of which may be placed on reserve.

One additional, preservation copy may be made which may be used to generate replacement copies in the event a use copy is lost, stolen or damaged

### **Fair Use Guidelines for Off-Air Taping of Television Programs**

In Pinellas County, off-air taping is subject to Principal approval and monitoring. A log should be kept in regard to off-air taping activities. (A sample log can be acquired from the Program Coordinator of Library Media at [woods1@pcsb.org](mailto:woods1@pcsb.org) .) TV programs may be recorded off-the-air

simultaneously with broadcast transmission and retained for a maximum period of 45 calendar days from the broadcast date with the following restrictions:

Definition of "off-air"; (Broadcasting) obtained by reception of a radiated broadcasting signal rather than by line feed: an off-air recording.

### **Permitted**

Programs may be recorded off-the-air from channels that can be received with an outside antenna. In Pinellas County those channels include: 3, 8, 10, 13, 16, 22, 28, 32, 38, 40, 44, etc.

Programs must be shown in the classroom during the first 10 consecutive "school" days;

Programs must be erased on the 45th consecutive day following the broadcast date;

Recordings must be made at the request of an individual teacher, not by the school library information specialist or other parties in anticipation of teacher use;

Additional copies of the off-air recording may be made during the first 10 days, if more than one teacher has requested its use;

CBS "After School Specials" may be recorded off-the-air under the above guidelines;

C-SPAN may be recorded off-the-air and retained in perpetuity;

Speeches by federal officials, like the President, may be recorded and retained. Commentary regarding that speech by newscasters, etc., may not be recorded without permission;

Programs taped must be used directly for instruction and not for entertainment.

10. Programs provided by Cable in the Classroom through Bright House Cable may be recorded and retained following the Cable in the Classroom website [www.ciconline.org](http://www.ciconline.org).

11. C-Span for life of records other than Cable in the Classroom programming and open air stations broadcast by cable, programs may not be recorded from cable channels without prior permission.

### **Not Permitted**

1. Television programs recorded in their entirety, including the commercials.

## **Use of Videotapes in the Classroom**

### **Permitted**

1. Videotapes lawfully purchased by schools and marked "FOR HOME USE ONLY" may be used for face-to-face teaching purposes, NOT for entertainment, reward or behavior modification

purposes. The key is that the tape is curriculum incorporated as part of the systematic teaching activities of the program in which it is being used.

**IMPORTANT:** When purchasing these videotapes, place the following clause on a purchase order for school orders: "This videotape will be used in our school for educational purposes only".

2. Videotapes purchased with permission to make one archival copy (unless otherwise specified) may be copied only once. When the reproduced copy is no longer usable, the archival copy becomes the working copy.

3. Renting - The rental of a videocassette bearing FOR HOME USE ONLY warning notice and intended for instructional use brings into play the issue of contract law. When one rents something, he/she agrees to all conditions stated or implied. The warning notice label is clearly stated. If you feel it is a must for a subject, rent only video programs from sources who indicate, in their rental agreements, that performance rights have been granted for instructional use in an educational setting. Rental or purchased "home use only videos: may only be used in the classroom if the School Instructional Materials Selection Committee has met to preview the video and has agreed that it is curriculum related educational material to be included in the teacher lesson plans. Either purchased or rental video programs may only be used for other than planned, direct, instructional activities. They may not be used for entertainment, fund raisers or time fillers.

4. Permitted Video recordings through Movie Licensing USA ([www.movlic.com](http://www.movlic.com)), following the ratings restrictions of the District.

### **Not Permitted**

Videotapes borrowed, donated by or rented from any source may not be used in the classroom unless the school materials selection committee has approved the content as relative curriculum materials and its use documented in lesson plans and the videotape is used for face-to-face teaching purposes, not for entertainment, reward, or behavior modification purposes. (Follow School Board Policy on controversial materials) Videotapes provided for loan from a public or academic library may be used in the classroom unless the distributor has indicated that the videotape is restricted from being used in an educational setting. The videotape may only be used for face-to-face teaching purposes, not for entertainment, reward, or behavior modification purposes.

**IMPORTANT:** The principal must approve the content of any film/video with X, NC17, R, PG, PG13 and must be responsible to the community for communicating its educational purpose. Additionally, the Motion Picture Association of America rates films according to X, NC17, R, PG, PG13 and G. If films having a rating other than G are used in the classroom, parental permission forms signed by the parent and on file prior to the showing are suggested.

REMEMBER: Performances of copyrighted video programs in auditoriums, stadiums or gymnasiums etc. during a school assembly, graduation ceremony, class play, or sporting event are not permitted without written permission from the copyright owner.

The request should be sent, together with a self-addressed return envelope, to the permission department of the publisher in question. A sample request can be acquired from the Program Coordinator of Library Media at [woods1@pcsb.org](mailto:woods1@pcsb.org) . For purposes of proof and to define the scope of the permission, it is important that the permission be in writing.

NOTE: Before and after school and Latchkey programs do not qualify for educational use of videotapes.

### **How to Secure a Copyright**

Copyright is secured automatically when the work is created and a work is created when it is fixed in a copy or phonorecord for the first time. In general, copies are material objects from which a work can be read or visually perceived either directly or with the aid of a machine or device, such as books, manuscripts, sheet music, film, video recordings, or other storage mediums. However, to insure the rights of a work, a copyright should be registered with The Library of Congress, Copyright Office. To register a work, send the following three elements to the Copyright Office in the same envelope or package to:

**Library of Congress copyright office 101 Independence Avenue, S.E. Washington D.C. 20559-60001**

Requestors may order application forms by calling (202) 707-3000 or 877-478-0778 (verify).

NOTE: It is recommended that a copy of the work to be copyrighted be sent "registered" mail to the owner prior to sending it to the Copyright Office. This provides the owner with official proof that the material originated from the owner. (Keep the envelope sealed.)

### **How to Investigate the Copyright Status of a Work**

The main ways to investigate the copyright status of a work are as follows:

Examine a copy of the work (or, if the work is a sound recording, examine the disc, tape cartridge, or cassette or other medium in which the recorded sound is fixed, or the album cover, sleeve, or container in which the recording is sold);

Make a search of the Copyright Office catalogs and other records yourself.

Have the Copyright Office make a search for you (Cost = \$165.00 per hour).

A typical copyright notice consists of the word "Copyright" the abbreviation "Copr.", or the symbol © , together with the name of the copyright owner and the year of first publication. Even if all three

ways to investigate the copyright status are followed, the results may not be completely conclusive. However, if records are retained that show evidence of a search, chances of a lawsuit are diminished.

**REMEMBER:** Absence of a Copyright notice does not necessarily mean that the work is not copyrighted!

The use of the copyright notice is no longer mandatory in protecting the work.

### **How to Obtain Special Permission**

(Print – unedited only – expand to other materials) Reference form is used to get permission.

When special permission is requested to use copyrighted material, the Association of American Publishers suggests that the following information be included to expedite the process:

Title, author and/or editor and edition of materials to be duplicated;

Exact material to be used, giving amount, page numbers, chapters and, if possible, a photocopy of the material;

Number of copies to be made;

Intended use for duplicated materials;

Form of distribution; classroom, newsletter, etc. ;

Whether or not the material is to be sold; and,

Type of media reprint; photocopy, offset, typeset, etc.

The request should be sent, together with a self-addressed return envelope, to the permission department of the publisher in question. A sample request can be acquired from the Program Coordinator of Library Media at [woods1@pcsb.org](mailto:woods1@pcsb.org). For purposes of proof and to define the scope of the permission, it is important that the permission be in writing.

**NOTE:** Remember to allow sufficient lead time to receive a reply!

<http://www.pinellas.k12.fl.us/lmt/Copyright/copyright.htm>

**Written permission from a copyright owner supersedes all guideline regulations.**

### **Special Permission- MUSIC**

When special permission is requested to use copyrighted MUSIC with various forms of multi-media video or other public performances for educational use ONLY, a non-theatrical license must be obtained. The Harry Fox Agency suggests that the following procedure be followed:

STEP ONE: The composer's name(s) must be known in order to make an inquiry into the licensing of a song. To research this, first look at the recording label. If the composer is not listed, call the producer (record company on label) to inquire. Give the title and artist of the song. (E.g.: Wind Beneath My Wings sung by Bette Midler.) STEP TWO: The publisher must next be known. To research, call or see website ASCAP or BMI. Give the title, artist and composer of the song. They will then tell you if they are the licensing agency and will also tell you the name of the publisher. (E.g.: 50% Warner House of Music and 50% WB Gold Music Coop. (A sample permission letter can be acquired from the Program Coordinator of Library Media at [woodsl@pcsb.org](mailto:woodsl@pcsb.org).) STEP THREE: Create a letter to the licensing agency to request a non-theatrical license agreement.

Include in a letter of inquiry, the following information: Title of song, Audience, Performer, Nature of use of show, Composer, Number of times shown, Publisher, Nature of slides or video, Distributor, your name, Show places(s), and your address and telephone number.

### **Copyright Clearinghouses**

To obtain permission to use copyrighted materials in a public presentation/performance, write to the following agencies:

**MUSIC:** (Use of copyrighted music in performances or other public presentations.)

(ASCAP) American Society of Composers, Authors and Publishers 1 Lincoln Plaza, New York, New York 10023 (212) 595-3050.

(BMI) Broadcast Music, Inc. 320 West 57th Street, New York, New York 10019 (212) 586-2000.

SESAC, Inc. 10 Columbus Circle, New York, New York 10019 (212) 586-3450.

**MECHANICAL AND SYNCHRONIZATION RIGHTS:** (Dubbing music to video.)

The Harry Fox Agency, Inc. 205 E. 42nd Street, 18th Floor, New York, New York 10017, Phone: (212) 370-5330 (Verify website phone/address) **DRAMATICAL or MUSICAL WORKS (Jen's contact)**

**TELEVISION:** (Off-air-taping of many television programs.)

Television Licensing Center 1144 Wilmette Ave., Wilmette, Illinois, 60092 (800) 323-4222

### **Copyright Question Log**



It is advised, for documentation purposes, that a log of questions be retained at the school and district levels. This log should be kept by those asking copyright questions, as well as those fielding questions.

The following is suggested for inclusion:

Date: Name of Inquirer: School/Location: Question: Answer:

### **Bibliography (UPDATE)**

Since copyright guidelines for educators are sometimes in the "gray" zone, it is important to be careful from whom you seek advice. Professional journals carry copyright articles that sometimes contain information or policies that are not adopted by Pinellas County Schools. The following bibliography is a recommended resource list comprised of author's who are well-known for their expertise in the field of copyright guidelines for educators.

Becker, Gary H. Copyright: A Guide to Information and Resources, 3rd ed. Lake Mary, FL: Gary H. Becker, 2003.

Bielefield, Arlene and Lawrence Cheseman. Libraries and Copyright Law. New York: Neal-Schuman, 1993.

Bielefield, Arlene and Lawrence Cheeseman. Technology and Copyright Law: A Guidebook for the Library, Research and Teaching Professions. New York: Neal-Schuman, 1997.

Botterbusch, Hope Roland. Copyright in the Age of New Technology. Bloomington, IN: Phi Delta Kappa Educational Foundation, 1996.

Bruwelheide, Janis H. The Copyright Primer for Librarians and Educators, 2<sup>nd</sup> ed. Chicago, IL: American Library Association, 1995.

Dukelow, Ruth H. The Library Copyright Guide. Washington, DC: AECT, 1992.

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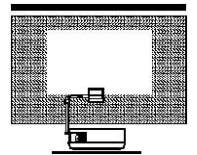
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# Index

[answer sheet](#) | [anthology](#) | {archival copy [computer software](#) | [videotape](#)} | [Audio](#) | [Audiovisual works](#) | [book, chapter](#) | [CD-ROM Technology](#) | [cartoon](#) | [chart](#) | [closed-circuit TV](#) | [collective works](#) | [computer software](#) | {copyright, [clearinghouse](#) | [defined](#) | [how to secure](#) | [notice](#) | [status](#)} | [cumulative effect defined](#) | [Databases](#) | [diagram](#) | [ditto masters](#) | [Downloading](#) | [drawing](#) | [face-to-face teaching](#) | [fair use](#) | [fair use off-air taping](#) | [film chain projectors](#) | {films [entertainment](#) | [rated](#)} | [filmstrips](#) | [graph](#) | [History](#) | [illustration](#) | [Laserdisc Technology](#) | [Local productions](#) | {logs, questions | [off-air](#)} | [Multimedia](#) | [Motion pictures](#) | {multiple copies, [print](#) | [computer software](#)} | [music](#) | [Networking](#) | [newspaper article](#) | [overhead projection](#) | {performances [defined](#) | [public](#) | [periodical article](#) | [phonograph records](#) | [photographs](#) | [plays, videotaping of](#) | [poems](#) | [public libraries, films](#) | [short stories](#) | [16mm films](#) | [sound/slide](#) | [special permission](#) | {spontaneity, [defined](#)} | {TV, [licensing](#) | [off-air taping](#)} | [tests](#) | [transparencies](#) | [video productions](#) | [videotapes](#) | [workbooks](#)

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<http://www.pinellas.k12.fl.us/lmt/Copyright/copyright.htm>



THE SCHOOL DISTRICT OF PINELLAS COUNTY  
DEPARTMENT OF K-12 INSTRUCTIONAL MATERIALS AND LIBRARY MEDIA  
SERVICES (DOP/AE)

**FAIR USE CHECKLIST OF COPYRIGHTED MATERIAL**

Copyright, a form of intellectual property, protects original works of authorship. The author or creator of the original work has the exclusive rights to reproduce, distribute, adapt, perform, or display the protected work. The owner also has the right to authorize and/or prohibit others from reproducing the copyrighted work. This right is subject, however, to certain limitations, including the doctrine of “fair use.” There is no specific definition of when use of copyrighted works constitutes “fair use;” however, section 107 of the Copyright Act of 1976 (17 U.S.C. §107), sets forth four factors to be considered in determining whether or not a particular use of copyrighted material is “fair.” These factors are as follows:

1. The purpose and character of the use, including whether such use is of commercial nature or is for nonprofit education purposes;
2. The nature of the copyrighted work;
3. The amount and substantiality of the portion used in relation to the copyrighted work as a whole; and
4. The effect of the use upon the potential market for or value of the copyrighted work.

The distinction between “fair use” and infringement may be unclear and not easily determined. The application of the four factors depends on the particular facts of your situation.

This checklist will help you complete a fair use analysis. This checklist is also a record of your decision-making process. Maintaining a record of your fair use analysis is critical to the defense of an infringement claim. The checklist would be used in establishing that you believed and/or had reasonable grounds for believing that the use of the copyrighted work was a fair use and that you reasonably attempted to meet the objectives under Section 504(c)(2) of the Copyright Act (17 U.S.C. §504 (c)(2)), which offers some protection for educators and librarians who act in good faith. Once you have completed the checklist, it shall be kept on file per the District’s retention schedule.

You can check more than one box in each column and even check boxes across columns; therefore, the checklist may show arguments in a specific situation that both favor and oppose fair use. Your signature at the end of this document is an indication that you have analyzed the cumulative “eight” of the factors that favor or oppose fair use before copy use or duplication of the copyrighted work.

Name \_\_\_\_\_ School \_\_\_\_\_

Grade Level \_\_\_\_\_ Subject \_\_\_\_\_ Unit of Study \_\_\_\_\_

**CITATION DESCRIPTION OF ITEM YOU INTEND TO USE OR DUPLICATE:**

Author/Editor/Translator \_\_\_\_\_

Title of Work \_\_\_\_\_

- Type of Work  Literary  Musical  Dramatic  Pantomimes and choreographic  
 Sound recording  Pictorial, graphic, or sculptural  
 Motion pictures or other audiovisual work (including website and computer software)  
 Architectural

Segment or portion used \_\_\_\_\_

Describe with Specificity the Intended Use of the Work

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**What is the PURPOSE and CHARACTER of the proposed use?** (check all that apply)

<b>FAVORING FAIR USE</b>	<b>OPPOSING FAIR USE</b>
<input type="checkbox"/> Teaching (includes multiple copies restricted to single classroom use) <input type="checkbox"/> Transformative or productive use (changes the work for new utility) <input type="checkbox"/> Nonprofit educational institution <input type="checkbox"/> Restricted access (to students or other appropriate group) <input type="checkbox"/> Research <input type="checkbox"/> Parody <input type="checkbox"/> Comment <input type="checkbox"/> Scholarship <input type="checkbox"/> News reporting <input type="checkbox"/> Criticism <input type="checkbox"/> Commercial activity	<input type="checkbox"/> Profiting for the use <input type="checkbox"/> Entertainment <input type="checkbox"/> Bad-faith behavior <input type="checkbox"/> Denying credit to original author

**What is the NATURE of the original copyright work?** (check all that apply)

<b>FAVORING FAIR USE</b>	<b>OPPOSING FAIR USE</b>
<input type="checkbox"/> Small quantity of original work <input type="checkbox"/> Portion used is not central or significant to entire work <input type="checkbox"/> Amount is appropriate for educational objectives	<input type="checkbox"/> Large portion or whole work used <input type="checkbox"/> Portion used is central to work of "heart of the work"

**What AMOUNT and SUBSTANTIALITY of the portion of the copyrighted work will be used?** (check all that apply)

(You should measure the amount of material both quantitatively and qualitatively. Evaluate quantity relative to the length of the entire work and the amount needed. The reproduction of an entire work weighs against fair use. A reproduction that is small but still uses the "heart" of the work, will also weigh against fair use).

<b>FAVORING FAIR USE</b>	<b>OPPOSING FAIR USE</b>
<input type="checkbox"/> Small quantity of original work <input type="checkbox"/> Portion used is not central or significant to entire work <input type="checkbox"/> Amount is appropriate for educational objectives	<input type="checkbox"/> Large portion or whole work used <input type="checkbox"/> Portion used is central to work of "heart of the work" <input type="checkbox"/> Portion taken or used makes up the greater part of the User's work

**What is the EFFECT on the market or potential market of the original work?** (check all that apply) (Reproduction that substitutes for the purchase of the original weighs heavily against fair use.)

<b>FAVORING FAIR USE</b>	<b>OPPOSING FAIR USE</b>
<input type="checkbox"/> User owns a copy that was lawfully acquired or purchased <input type="checkbox"/> One or few copies made <input type="checkbox"/> No significant effect on the market potential market for copyrighted work <input type="checkbox"/> No similar product marketed by the Copyright holder <input type="checkbox"/> Lack of licensing mechanism	<input type="checkbox"/> Copy could replace scale of copyrighted work <input type="checkbox"/> Significantly impairs market or potential market for copyrighted work or derivative <input type="checkbox"/> Reasonably available licensing or mechanism for use of copyrighted work <input type="checkbox"/> Affordable permission available for using work <input type="checkbox"/> Numerous copies made <input type="checkbox"/> Plans include posting on the web or use in other public forum [contest] <input type="checkbox"/> Repeated or long term use

Complete the analysis by checking ONE of the following statements. A record of your analysis should remain on file in the school's main office.

Based on the fair use analysis completed above, I believe that my use of the copyrighted work falls within the fair use exception.

Based on the fair use analysis completed above, I believe that my use of the copyrighted work does not fit within the fair use exception. I will obtain permission from the copyright owner before using the copyrighted work.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date