

Section 7: COPYRIGHT

Copyright and Fair Use

All MISD Library Media Programs must ensure compliance with district copyright laws. As specialists in information, library media specialists should take a proactive role in educating campus faculty, staff and students about the importance of the ethical use of information, to include copyright compliance.

Mansfield ISD Copyright Policy

The following information is current MISD copyright policy. This information may also be accessed online at: <http://www.boarddocs.com/tx/misd/Board.nsf/Public?OpenFrameSet>. Use the keyword “copyrighted material.”

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EFE Legal

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EFE (Legal)

Copyrighted Material

EXCLUSIVE RIGHTS

Employees of the District shall comply with the provisions of the United States Copyright Law. Subject to certain specific exceptions, some of which are stated below, the owner of a copyright has the exclusive rights:

1. To reproduce the copyrighted work in copies or phono records;
2. To prepare derivative works based upon the copyrighted work;
3. To distribute copies or phono records of the copyrighted work to the public by sale or other transfer of ownership, or by rental, lease, or lending;
4. In the case of literary, musical, dramatic, and choreographic works, pantomimes, and motion pictures and other audiovisual works, to perform the copyrighted work publicly;
5. In the case of literary, musical, dramatic, and choreographic works, pantomimes, and pictorial, graphic, or sculptural works, including the individual images of a motion picture or other audiovisual work, to display the copyrighted work publicly;
- and
6. In the case of sound recordings, to perform the copyrighted work publicly by means of a digital audio transmission.

FAIR USE

An exception to the exclusive rights enjoyed by copyright owners is the doctrine of fair use. The fair use of a copyrighted work, including such use by reproduction in copies or phonorecords or by any other means specified by 17 U.S.C. 106, for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research, is not an infringement of copyright. The following factors shall be considered in determining fair use:

1. The purpose and character of the use, including whether the use is of a commercial nature or for nonprofit educational purposes.
2. The nature of the copyrighted work.

3. The amount and importance of the portion used in relation to the copyrighted work as a whole.

The effect of the use upon the potential market for or value of the copyrighted work.

PERFORMANCES AND DISPLAYS

Additional exceptions related to performances and displays include performance or display of a work by instructors or pupils in the course of face-to-face teaching activities of a nonprofit educational institution, in a classroom or similar place devoted to instruction, unless, in the case of a motion picture or other audiovisual work, the performance, or the display of individual images, is given by means of a copy that was not lawfully made under this title, and that the person responsible for the performance knew or had reason to believe was not lawfully made. *17 U.S.C. 110*

GUIDELINES

Employees who wish to use copyrighted print material and sheet music shall follow the guidelines set forth in the “Agreement on Guidelines for Classroom Copying in Not-for-Profit Educational Institutions” and “Guidelines for Educational Uses of Music.” Those guidelines establish a minimum guaranteed fair use, not a maximum. Any use that falls within those guidelines is a fair use; any use that exceeds these guidelines shall be judged by the four factors stated above and may be subject to challenge. Any determination regarding whether a use that exceeds the guidelines is a fair use shall rest with an appropriate court of law.

PROHIBITIONS

Notwithstanding the fair use guidelines, the following shall be prohibited:

1. Copying of print materials and sheet music to create or replace or substitute for anthologies, compilations, or collective works. This prohibition against replacement or substitution applies whether copies of various works or excerpts are accumulated, or reproduced and used separately.
2. Copying of or from works intended to be “consumable” in the course of study or teaching. These works include workbooks, exercises, standardized tests, test booklets, answer sheets, and like consumable material. Copying shall not substitute for the purchase of books, publishers’ reprints, or periodicals; be directed by higher authority; or be repeated with respect to the same item by the same teacher from term to term. No charge shall be made to the student beyond the actual cost of the photocopying. Additional prohibitions regarding the use of music are:
 1. Copying for the purpose of performance, except as permitted
 2. Copying for the purpose of substituting for the purchase of music, except as permitted under the “Guidelines for Educational Use of Music.”
 3. Copying without inclusion of the copyright notice that appears on the printed copy.

REFERENCE

“Agreement on Guidelines for Classroom Copying in Not-for-Profit Educational Institutions” and “Guidelines for Educational Use of Music” contained in the historical note following 17 U.S.C. 107.

BROADCAST PROGRAMS

Broadcast programs, including commercial and public television and radio, shall not be videotaped or tape recorded for reuse without permission, except within the following guidelines:

1. A broadcast program may be recorded off-air simultaneously with

broadcast transmission (including simultaneous cable retransmission) and retained by a District school for a period not to exceed the first 45 consecutive calendar days after date of recording. At the end of that retention period, off-air recordings shall be erased or destroyed.

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 during the first ten consecutive school days within the 45-calendar-day retention period. "School days" are actual days of instruction, excluding examination periods.
3. Off-air recordings shall be made at the request of and used by individual teachers and shall not be regularly recorded in anticipation of requests. No broadcast program shall be recorded off-air more than once at the request of the same teacher, regardless of the number of times the program is 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. All copies of off-air recordings shall include the copyright notice on the broadcast program as recorded.
5. After the first ten consecutive school days, off-air recordings may be used up to the end of the 45-calendar-day retention period only to determine whether or not to include the broadcast program in the teaching curriculum and shall not be used in the District for student exhibition or any other non-evaluative purpose without authorization.
6. Off-air recordings need not be used in their entirety, but the recorded programs shall not be altered from their original content. Off-air recordings shall not be physically or electronically combined or merged to constitute teaching anthologies or compilations.

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INSTRUCTIONAL RESOURCES:
COPYRIGHTED MATERIAL

Copyright Infringement

All persons are prohibited from using District technology in violation of any law including copyright law. Only appropriately licensed programs or software may be used with District technology. No person shall use the District's technology to post, publicize, or duplicate information in violation of copyright law. The Board shall direct the Superintendent or designee to employ all reasonable measures to prevent the use of District technology in violation of the law. All persons using District technology in violation of law shall lose user privileges in addition to other sanctions. The District shall notify the U.S. Copyright Office of the designated agent's identity. The District's Web site shall include information on how to contact the District's designated agent and a copy of the District's copyright policy. Upon notification, the District's designated agent shall take all actions necessary to remedy any violation. The District shall provide the designated agent

appropriate training and resources necessary to protect the District. If a content owner reasonably believes that the District's technology has been used to infringe upon a copyright, the owner may notify the designated agent.

Electronic Media

To comply with copyright law, electronic media used in the classroom shall be for educational purposes only.

Computer Software:

Unless otherwise provided in the purchase agreement, a purchased computer program shall not be used to make copies. A computer program may be legally copied only if:

1. Making a copy is an essential step in using the program (such as automatic copying into memory when a program is loaded); or
2. The new copy is a backup; backups cannot be used simultaneously with the original and must be erased if the original is resold.

District employees shall not use the same program on more than one computer at a time unless the purchase agreement or written permission from the vendor allows the District to network the program or allows other specified multiple use of the single copy.

Important Internet Links for Copyright Information

Some comprehensive sources of copyright information can be found at:

Copyright for educators: Web portal for a comprehensive list of copyright-related sites.

www.falcon.jmu.edu/ramseyil/copy.html

U.S. Copyright Office: Information Circulars and Factsheets: Features a variety of circulars and fact sheets dealing with many aspects of copyright.

<http://www.copyright.gov/circls/>

The Educator's Guide to Copyright and Fair Use: Sponsored by Education World, this site features a 5-part article on copyright and fair use, specifically tailored for education.

http://www.education-world.com/a_curr/curr280.shtml