

# ALLENTOWN SCHOOL DISTRICT

SECTION: OPERATIONS

TITLE: COPYRIGHTED WORKS

ADOPTED: 6/25/98

REVISED:

<p>1. Purpose U.S. Constitution, Article 1, Sec. 8, Clause 8 17 U.S.C. Sec. 101 et seq</p> <p>2. Definition 17 U.S.C. Sec. 101</p>	<p style="text-align: center;">814. COPYRIGHTED WORKS</p> <p>The Board recognizes that the Federal Constitution grants authors and creators rights<sup>1</sup> to protect their property as a means of promoting and advancing knowledge, and that Congress enforces these rights through U.S. Copyright Law. At the same time, the Board recognizes that Congress and the courts have provided that sometimes reproducing someone else's work is not harmful to that person and using the work is an important part of public discourse. Therefore, a special exception from liability known as the "Fair Use" doctrine is legitimately granted for educational use when certain conditions are met. Violations of the U.S. Copyright Law by employees and students are prohibited.</p> <p>Copyright Law protects the following types of works: (1) literary works, (2) musical works, (3) dramatic works, (4) pantomimes and choreographic works, (5) pictorial, graphics and sculptural works, (6) motion pictures and other audiovideo works, (7) sound recordings and (8) architectural works. Copyrights do not protect ideas, procedures, process systems, methods of operation, concepts, principles or discoveries.</p> <p><sup>1</sup> The rights include the exclusive rights to: (1) reproduce the copyrighted work, (2) prepare derivative works based on the copyrighted work, (3) distribute copies of the work, (4) perform the work, (5) display the work, and (6) publicly transmit sound recordings digitally with audio. 17 U.S.C. Sec. 106.</p> <p>Under the "Fair Use" doctrine, copyrighted materials may be reproduced for purposes such as criticism, comment, news, reporting, teaching, scholarship or research. To determine whether a particular use qualifies as "Fair Use", the factors must be considered and analyzed:</p> <ol style="list-style-type: none"> <li>1. THE PURPOSE AND CHARACTER OF THE USE, including whether such use is of a commercial nature or is for nonprofit educational purposes.</li> <li>2. THE NATURE OF THE COPYRIGHTED WORK. Staff may make single copies of book chapters for use in research, instruction or preparation for teaching.</li> </ol>
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<p>3. Authority</p> <p>Legislative History for Copyright Act of 1976-House Judiciary Committee, Report No. 94-1476</p>	<p>3. THE AMOUNT AND SUBSTANTIALITY OF THE PORTION USED IN RELATION TO THE WORK AS A WHOLE. Copying the whole of a work is not Fair Use; copying a small portion may be.</p> <p>4. THE EFFECT OF THE USE UPON THE POTENTIAL MARKET FOR OR VALUE OF THE COPYRIGHTED WORK. If economic loss to the copyright holder can be shown, even making a single copy of certain materials may be an infringement.</p> <p>A. <u>Minimum Guidelines for Classroom Copying and Not for Print Educational Institutions</u></p> <p>Employees who make copies of copyrighted works who fail to follow these guidelines will be held personally liable for any penalties (civil or criminal) for their copyright violations.</p> <p>1. Single copies may be made of a chapter in a book, an article in a periodical or newspaper, a short story, a short essay or a short poem, whether or not from a collective work, a chart, graph, diagram, drawing cartoon or picture from a book, periodical or newspaper, by or for teachers at their individual request for scholarly research, teaching or preparation to teach a class.</p> <p>2. Multiple copies, not exceeding more than one per pupil per course, may be made for classroom use or discussion if the copying meets the tests of "brevity, spontaneity and cumulative effect". Each copy must include an appropriate copyright notice.</p> <p>a. <u>Brevity</u></p> <p>i. <u>Poetry</u>: A complete poem, if less than 250 words and two pages long, may be reproduced; excerpts from longer poems cannot exceed 250 words.</p> <p>ii. <u>Prose</u>: Complete articles, stories or essays of less than 2,500 words or excerpts from prose works consisting of not more than 1,000 words or 10% of the work, whichever is less but in any event a minimum of 500 words may be reproduced. Each numerical limit may be expanded to permit the completion of an unfinished line or unfinished paragraph of a poem or prose.</p> <p>iii. <u>Illustrations</u>: One chart, graph, diagram, drawing, cartoon or picture per periodical issue may be reproduced.</p>
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iv. Special Works: Certain works combine words and illustrations and total less than 2,500 words. Notwithstanding ii. above these works may not be reproduced in their entirety. An excerpt consisting of not more than two pages and containing not more than 10% of the words in the full text may be reproduced.

b. Spontaneity

Copying must be done 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 must be so close in time that it would be unreasonable to expect a timely reply to a request for permission to copy.

c. Cumulative Effect

Teachers are limited to using copied material for only one course in the school in which copies are made. No more than one short poem, article, story, essay or two excerpts from the same author, nor more than three works from a collective work or periodical volume during one class term may be reproduced. Teachers are limited to nine instances of multiple copying for one course during one class term. These limitations do not apply to current news periodicals, newspapers and current news sections of other periodicals.

3. Prohibitions

a. Copies must not be used to create, replace or substitute for anthologies, compilations, collective works or consumable works. "Consumable" works include, but are not limited to: workbooks, exercises, standardized tests, test booklets and answer sheets. Teachers cannot substitute copies for the purchase of books, publishers' reprints or periodicals, nor can they repeatedly copy the same item from term to term. Copying cannot be directed by a "higher authority".

b. Students may not be charged an amount beyond the actual cost of the reproduction of the work reproduced.

Legislative  
History for  
Copyright  
Act of 1976-  
House  
Judiciary  
Committee  
Report No.  
94-1476

B. Minimum Guidelines for Educational Use of Music

Employees who fail to follow these guidelines will be held personally liable for any penalties (civil or criminal) for their copyright violations.

1. Permissible Copying

In addition to the Section A above, and unique to music, reproductions may be for:

- a. Emergency copying to replace purchased copies not available for an imminent performance, provided that purchased replacement copies are substituted in due course.
- b. 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 performable unit such as a section, movement or aria, but in no case more than 10% of the whole work. No more than one (1) copy per pupil may be made. For academic purposes (other than performance) a single copy of an entire performable unit may be made for works out of print or unavailable except in a larger work (this is for scholarly research or in preparation to teach a class).
- c. Purchased copies 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 existed.
- d. A single copy of recordings of performances by students may be made for evaluation or rehearsal purposes and may be retained by the school district or individual teacher.
- e. A single copy of a sound recording of the copyrighted material may be made from sound recordings owned by a school district or an individual teacher for the purpose of constructing aural exercises or examinations and may be retained by the school district or individual teacher.

2. Prohibitions

The following activities are prohibited:

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

<p>U.S. House of Representatives Subcommittee on Courts, Civil Liberties and the Administration of Justice Negotiations Team on Guidelines of Off-Air Recording (September 1981).</p>	<ul style="list-style-type: none"> <li>b. Copying of or from works intended to be consumable in the course of study or in teaching such as workbooks, exercises, standardized tests, answer sheets and like materials.</li> <li>c. Copying for the purpose of performance, except as stated above.</li> <li>d. Copying for the purpose of substituting for the purchase of music, except as stated above.</li> <li>e. Copying without inclusion of the copyright notice which appears on the printed body.</li> </ul> <p>C. <u>Minimum Guidelines for Off-Air Recordings by Nonprofit Educational Instructions</u></p> <p>Employees who fail to follow these guidelines will be held personally liable for any penalties (civil or criminal) for their copyright violations.</p> <ol style="list-style-type: none"> <li>1. Broadcast programs may be recorded off-air simultaneously with broadcast transmission and retained by the school district for a period not to exceed forty-five (45) consecutive "calendar" days after the date of recording. After this period of time, all recordings must be erased or destroyed immediately</li> <li>2. These recordings may be used once by individual teachers while conducting relevant teaching activities, and repeated once only when the instructional reinforcement is necessary, during the first ten (10) consecutive "school days" in the forty-five (45) calendar day retention period.</li> <li>3. Off-air recordings may be made only at the request of and use by individual teachers, and may not be regularly broadcast 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 recorded.</li> <li>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.</li> <li>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.</li> </ol>
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<p>17 U.S.C. Sec. 108 Legislative History for Copyright Act of 1976-House Judiciary Committee Report No. 94-1476; Senate Judiciary Committee Report No. 94-473 and the Conference Report H.R. Rep. No. 94-1733</p>	<p>6. Off-air recordings need not be used in their entirety; but the recorded programs may not be altered from their original content, and may not be physically or electronically combined or merged to constitute teaching anthologies or compilations. Such recordings must include the copyright notice on the broadcast program as recorded.</p> <p>7. All off-air recordings must include the copyright notice on the broadcast program as recorded.</p> <p>8. Only occasional or intermittent off-air taping is permitted, i.e., systematic taping is prohibited.</p> <p>D. <u>Minimum Guidelines for Librarians</u></p> <p>1. A library, archive, or media center may reproduce and distribute one (1) copy or recording of a copyrighted work and distribute it if:</p> <ul style="list-style-type: none"> <li>a. a copyright notice is visible on the first page of the copies made for the patrons;<sup>2</sup></li> <li>b. the reproduction or distribution is made without any purpose of direct or indirect commercial advantage;</li> <li>c. the collection or archive is open to the public and available to the institution and staff to which it is a part, and to other persons doing research in a specialized field; and d. the copy or original was obtained legally.</li> </ul> <p>2. The library may reproduce a copy of an unpublished work from its collection to preserve and secure it (machine readable copies for information storage are not permitted).</p> <p>3. The library may reproduce a copy of a published work that is damaged or stolen after a reasonable effort to obtain a copy, or a copy may not be obtained for a fair price.</p> <p>4. The library may reproduce and distribute smaller excerpts for research upon an individual's request through interlibrary loan if the library's copy becomes the property of the copyright owner, the library displays a written copyright warning on its order form and the copy is used for research, study and scholarship. Librarians will follow legal requirements pertaining to interlibrary loans.</p>
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<p>17 U.S.C. Sec. 110</p>	<p><sup>2</sup> Notice: This material may be protected by copyright law (Title 17, U.S. Code).</p> <ol style="list-style-type: none"><li>5. The library may reproduce and distribute the entire out-of-print works if the library (a) after reasonable investigation cannot obtain a copy at a fair price, (b) no longer has its copy because it became the property of the copyright owner, (c) has notice that the copy will be used for research, study or scholarship, and (d) the copyright notice is posted where copy orders are taken.</li><li>6. The fair use doctrine fully applies to library reproductions and distributions.</li><li>7. A library may make repeated copies of the same material under these guidelines if the copies are made as a result of an isolated and unrelated incident rather than systematic copying and distribution, or there are no related or concerted reproductions or distributions of multiple copies of the same materials.</li><li>8. The school district displays the required copyright notice on or about its copy equipment, where orders of copies are requested, and on the copy request form. <sup>3</sup></li></ol> <p style="text-align: center;"><sup>3</sup> NOTICE WARNING CONCERNING COPYRIGHT RESTRICTIONS</p> <p>The copyright law of the United States (Title 17, United States Code) governs the making of photocopies or other reproductions of copyrighted materials.</p> <p>Under certain conditions specified in the law, libraries and archives are authorized to furnish a photocopy of other reproductions. 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.</p> <p>E. <u>Productions and Displays</u></p> <ol style="list-style-type: none"><li>1. Copies of materials for "face-to-face" teaching activities involving performances or displays made by students or instructors, live performances without commercial advantage, and the use of instructional broadcasts are permitted. (Face-to-face teaching is defined as a classroom setting or similar place devoted to instruction as part of an instructional activity.)</li><li>2. Schools must be licensed to play copyrighted music where the performer is paid or admission is charged, even if the admission is used to cover refreshment costs.</li></ol>
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<p>17 U.S.C. Sec. 117</p>	<p>F. <u>Videotapes, Optical Discs, Distance Learning and Other Types of Audio/Visual Delivery Devices</u></p> <ol style="list-style-type: none"><li>1. Recorded copies of copyrighted programs owned by a staff member, another person, or a copy of a rental program may not be used for instructional purposes unless its use qualifies as "Fair Use".</li><li>2. Rental videocassettes, laser discs and other optical media that bear the "Home Use Only" warning label may not be used in a classroom, school assembly, or club unless specifically covered in the rental agreement or such use qualifies as "Fair Use."</li><li>3. Multimedia uses of copyrighted material falls under the Guidelines of the media being used (e.g. textual, computer, video, or audio).</li><li>4. Distance learning is subject to copyright guidelines if copyrighted material is copied or recorded during a transmitted lesson.</li><li>5. Closed-circuit distribution of a copyrighted work to classrooms in a school is legal, as long as the transmission is used for instructional activity and not entertainment.</li></ol> <p>G. <u>Computer Software</u></p> <ol style="list-style-type: none"><li>1. Copies of computer software (including those downloaded via modem), other than "public domain" software, must not be made without the permission of the vendor or copyright owner.</li><li>2. Illegal copies of copyrighted software may not be used on school equipment.</li><li>3. Unless otherwise permitted in an applicable license agreement, computer software may be legally copied only for the following reasons:<ol style="list-style-type: none"><li>a. It is created as an essential step in the use of the computer program (such as automatic copying into memory when a program is loaded).</li><li>b. It is created as a backup or archival copy only. All backup and archival copies must be destroyed in the event that the original program is erased or removed from inventory.</li></ol></li><li>4. Backup or archival copies may not be used simultaneously with the original program.</li></ol>
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5. Copying a copyrighted program from a computer hard drive to a floppy disc, for use as an additional copy, is illegal.
6. Failure to strictly adhere to the license provisions of copyrighted software is prohibited.
7. "Networking: computer software is also illegal if the legal multiple user or site licenses have not been acquired from the vendor or copyright owner.  
(Networking is the use of a single program in a single computer that is connected to other computers, permitting the program to be used simultaneously in more than one computer).
8. Reproduction of original computer software manuals is also illegal and copying must abide by the "Fair Use" doctrine.
9. The renting or leasing by individuals of computer software without the express permission of the copyright owner is illegal.

H. Internet

1. Computing facilities may be used only for educational purposes. Acceptable use of the Internet are activities that support teaching and learning.
2. Standard copyright restrictions must be observed; they are the same as for printed materials.
3. The unauthorized installation, use, storage, or distribution of copyrighted software or materials on school district computers is prohibited.
4. School policies as well as local, State and federal statutes and regulations concerning the use of computing facilities must be followed.
5. No copies of commercial software may be made in violation of copyright laws.
6. The computer system may not be used for personal financial gain or profit.
7. Computer software and other copyrighted materials may not be uploaded or downloaded illegally. It is a serious federal crime.
8. Copyrighted materials may not be sent or received without permission.

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|  | <ol style="list-style-type: none"><li>9. Computer programs may not be used to decode access control information.</li><li>10. No attempt may be made to circumvent or subvert system security measures.</li></ol> |
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