

ADMINISTRATIVE PROCEDURE

SAN DIEGO UNIFIED SCHOOL DISTRICT

NO: 7038

PAGE: 1 OF 7

CATEGORY: **Personnel, Staff Ethics**

EFFECTIVE: **1-01-78**

SUBJECT: **Copying and Use of Copyrighted Materials**

REVISED: **6-20-03**

A. PURPOSE AND SCOPE

1. To provide guidelines for copying and use of copyrighted materials, including use in classrooms and libraries; and provide administrative policy and procedures governing adherence to software copyright laws.
3. **Related Procedures:**

Copyrights and patents	7037
Criteria for instruction and for adoption and use of instructional materials	4050

B. LEGAL AND POLICY BASIS

1. **Reference:** Board policy: F-5001, G-7000, I-1200, I-1210; Public Law 94-553, 96-517; Copyright Act of 1976, 17 U.S. Code Annotated 101 *et seq.*
2. **Penalties for Infringement of Copyrights**
 - a. Where infringement has been a willful act of an employee, that employee may be personally liable for damages and the district will not indemnify (protect or exempt from loss or damage) the employee.
 - b. The court may assess actual damages or statutory damages not to exceed \$100,000 per violation.
 - c. Persistent willful violation of this procedure may be cause for dismissal of an employee.
 - d. Responsibility for compliance with copyright laws and guidelines lies with the originator of the request for materials to be copied, not with a reviewer or person authorizing a duplicating order.
3. **District Policy Regarding Software Copyright Laws.** It is the policy of the San Diego Unified School District to adhere to provisions of copyright laws in the area of computer programs. To discourage violation of copyright laws and to prevent illegal activities, all district employees shall adhere to the rules and guidelines outlined in this procedure.

4. **Downloading Files Off the Internet.** All district employees are restricted from downloading copyrighted music/movie files and other programs off the Internet.

C. GENERAL

1. **Originating Office.** Suggestions or questions concerning this procedure should be directed to the Office of General Counsel, Office of the Superintendent.
2. **Copying and Use of Copyrighted Materials.** Copying and use of copies of copyrighted materials without authorization by the copyright holder is greatly restricted.
3. **Fair Use Copying for Nonclassroom Use.** Nonclassroom uses include copying for such purposes as criticism, comment, news reporting, scholarship, or research; only single copies may be made.

Note: No exact definition of fair use is available. Each case must be decided on its own facts. Employees should proceed with caution in view of the district and personal liability involved. In determining fair use, factors to be considered include all of the following:

- a. Purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes. Nonprofit educational purposes are merely one factor to be considered; this does not mean fair use copying is authorized.
- b. Nature of the copyrighted work.
- c. Amount and proportion of the copyrighted work to be used (e.g., excerpts, short passages, brief quotations in a news report).
- d. Effect of the use upon the potential market for or value of the copyrighted work.

Note: Copying without inclusion of the copyright notice, which appears on the source, is prohibited. Copying of copyrighted materials should not be directed by a supervisor.

4. **Guidelines for Obtaining Permission to Use Copyrighted Materials.** When an employee is reproducing someone else's work, he/she shall first ascertain whether the copying is permitted by law. If the copying does not fall within the fair use provisions of the U.S. Copyright Act, the employee shall obtain written permission to reproduce the materials from the copyright holder in the manner described below.

- a. Requests for permission shall include the following information: (See E.5., page 13, Attachment, for a sample letter.)
 - (1) Title, author(s), editor(s), and publisher, producer(s), and distributor
 - (2) Edition, copyright, and/or production year
 - (3) Exact amount of material to be used (e.g. chapter, lines, running times, scenes)
 - (4) Nature of the use (how many times, when, and with whom)
 - (5) Number of copies to be made
 - (6) Method of copying
 - b. Requests should be sent, together with a self-addressed, stamped envelope, to the permissions department of the publisher in question. *The Literary Market Place* published by R.R. Bowker Co. is a good source for addresses. Sufficient time should be allowed for a reply.
 - c. The following tips have been useful in the past:
 - (1) Request all permission for a specific project at the same time.
 - (2) Send a photocopy of the copyright page and the pages to be copied.
 - (3) Make sure to include a return address.
5. **Use of Films, Videotapes, Filmstrips, Overhead Transparencies, and Slide Programs.** Permitted and prohibited uses are outlined in the guidelines on page 1 of E.5, Attachment.
6. **Rental, Purchase, and Use of Videotapes**
- a. Permitted and prohibited uses are outlined on page 2 of E.5., Attachment.
 - b. District policy requires educators to obtain approval from the principal before showing rented or purchased videotapes in classrooms. See Procedure. 4050 for additional guidelines on the use of videotapes.

7. Off-Air Taping of Television and Radio Programs

- a. Permitted and prohibited uses are outlined on pages 3, 4, and 5 of E.5., Attachment.
- b. Some television producers will grant copyright releases to permit copying and retention of specific programs for educational purposes. Sample forms for this purpose are attached on page 13 of E.5., Attachment.

8. Use of Audio Recordings: Records, Compact Disks, and Tapes. Permitted and prohibited uses are outlined on page 6 of E.5., Attachment.**9. Use of Computer Software.** Newer technologies and the potential for manipulation and merging of electronic media may result in the creation of new “copyrightable” forms of expression, the use or copying of which are not delineated in copyright law. These technologies include, but are not limited to, distance learning, satellite transmission, digital video, video disk, CD-ROM, computer interface, on-line data bases/information networks, and other educational interventions.

In the absence of clear-cut copyright authority, employees must contact the copyright holder for permission to manipulate or use these technologies in alternative ways. This course of action will ensure compliance with the spirit and intent of the copyright law as it applies to the role of electronic information and its transfer and use.

- a. Permitted and prohibited uses are outlined on page 7 of E.5., Attachment.
- b. A discussion of the ethical and practical problems caused by software piracy shall be included as part of the required district computer literacy course.
- c. The chief of staff is designated as the *only* individual who may sign districtwide or individual school license agreements for software. Each school should have a signed copy of the agreement for local control of access to software.
- d. District staff are cautioned to be careful to verify the status of anything taken from Internet. There is no policing of material placed on Internet and copyrighted materials have been placed on the Internet with no acknowledgment of the copyright.

10. Use of Printed Materials. Permitted and prohibited uses are outlined in the guidelines on page 8 of E.5., Attachment.

11. Reproduction of Works for Libraries

- a. Permitted and prohibited uses are outlined on page 10 of E.5., Attachment.
- b. Librarians are responsible for notifying those using copiers in the library/media center of copyright restrictions. See sample warning notice for use on copiers on page 11 of E.5., Attachment.
- c. Copyright owners will often permit use of copyrighted materials, but this permission must be in written form and must be obtained *before* material is copied. A sample form to request a copyright release appears on page 13 of E.5., Attachment.

12. Use of Sheet and Recorded Music

- a. Permitted and prohibited uses are outlined on page 12 of E.5., Attachment.
- b. Information on copyright protection of sheet music is available separately from the Visual and Performing Arts Department, Instruction and Curriculum Division, Office of Instructional Support.

13. Educational Performances and Displays. Use of copyrighted materials for performance and display outside the realm of face-to-face teaching activities requires contractual arrangements and written permission from the copyright holder.

Copyright law permits the showing of motion pictures and other audiovisual materials in a classroom within a nonprofit educational institution as long as it is part of face-to-face teaching activities. The use must be part of the instructional program and cannot be shown for recreation or entertainment. Section 110(1) of the U.S. Copyright Law (17 USCA 110[1]) exempts the classroom use of a lawfully manufactured and obtained copy of a motion picture or other audiovisual work from the public performance rights reserved to the copyright holder if it is used in the manner set forth above.

14. Warnings and notices of possible infringement of copyright law must be displayed where orders for copying are accepted, on printed forms for ordering copies, and at stations where unsupervised copying equipment is located.

- a. **Places where orders are accepted.** A display warning shall consist of a verbatim reproduction of the following notice in 18- or 24-point type on 8 ½” x 11” heavy paper.

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.

- b. **Photocopy order forms.** The above wording also must appear on photocopy order forms near the patron’s signature. Type size shall be no smaller than 8 points.
- c. **Notice on or near unsupervised copying equipment.** A 3” x 6” notice must be displayed near or on unsupervised copying equipment. The notice shall include the following:

NOTICE

The copyright law of the United States (Title 17, U.S. Code) governs the making of photocopies of copyrighted materials. The person using this equipment is personally liable for any infringement.

- d. **Notice on copies of copyrighted materials.** The following must be printed, stamped, or reproduced on the first page of each item copied:

NOTICE

This material may be protected by copyright law (Title 17, U.S. Code).


D. IMPLEMENTATION (See guidelines E.5., Attachment.)

E. FORMS AND AUXILIARY REFERENCES

1. Copyright Law "Notice" stamp, rubber, Stock Item 22-C-5771
2. Copyright Law, Request for Copy Service, Stock Item 22-C-5775
3. Copyright Law Warning Notice Labels, 3 x 6 in., Stock Item 22-C-5777
4. Copyright Law Warning Notice Card, 8-1/2 x 11 in., Stock Item 22-C-5779
5. Guidelines for Copying and Use of Copyrighted Materials, Attachment

F. REPORTS AND RECORDS

G. APPROVED BY



Chief of Staff, Terrance L. Smith
For the Superintendent of Public Education