



TITLE: COMPLIANCE WITH THE 1976
UNITED STATES COPYRIGHT LAW

NUMBER: BUL-714

ISSUER: Margaret A. Klee, Chief Information Officer
Information Technology Division

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ROUTING

Local District Superintendents
Local District School Support
Directors
Principals
Library Media Personnel
Instructional Technology
Applications Facilitators

POLICY: The Los Angeles Unified School District and all its employees are subject to the provisions of the Copyright Act of 1976. Teachers, administrators, library media teachers, and other District personnel will take an active role in assuring compliance with the United States copyright law and congressional guidelines.

The District 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 knowingly and/or willingly violate the District’s copyright policies do so at their own risk and may be required to remunerate the District in the event of a loss due to litigation.

MAJOR CHANGES: This revision replaces Office of the Deputy Superintendent, Instruction, Bulletin No. 43 (Rev.), with the same title, dated May 18, 1998. The content has been revised to reflect current District policy and updated to address new technological issues and District organization.

GUIDELINES: The following guidelines apply.

I. Responsibilities of District Personnel

- A. Establishing procedures
Principals or administrators are responsible for establishing procedures that will enforce copyright laws 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 photocopying machines and recording devices are to ensure that those using 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 by libraries or archives. The wording and format of the notice required by law appear in Attachment B. It is also required by law that this notice be included on any form that is used to request copying service. A sample order form and the legal notice to be used appear in Attachment C.

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.**

II. 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 no copyright notice is included unless you know 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 you know 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.

Also impacting a work's public domain status is the Sonny Bono Copyright Term Extension Act, signed into law in 1998. This Act amended the duration of copyright protection by extending the general copyright terms for an additional 20 years. For example:

A. Works created after January 1, 1978

1. Single author: The copyright protection term equals the life of the author plus 70 years.



2. Joint author: The term endures for 70 years after the last surviving author's death.
 3. Anonymous and pseudonymous works and works made for hire: The term extends 95 years from the year of first publication or 120 years from the year created, whichever expires first.
- B. Works created but not published or registered before January 1, 1978
Copyright protection lasts for the life of the author plus 70 years, but does not expire earlier than December 21, 2002. If the work was published before December 31, 2002, the term does not expire before December 31, 2047.
- C. Pre-1978 works still in their original or renewal terms of copyright
- The Act extends copyright protection to 95 years from the date that copyright was originally secured.

III. Works Made for Hire

As discussed in Section III above, a work is considered copyrighted as soon as it is fixed in a tangible form. The copyright immediately belongs to the author who created it. However, there is an exception to that rule: works made for hire. Section 101 of the Copyright Act defines a "work made for hire" as "a work prepared by an employee within the scope of his or her employment." In such cases, the employer is the initial copyright owner unless both parties sign a written agreement indicating otherwise. Furthermore, Section 60076 of the California Education Code reinforces this principle. It explains that royalties or other compensation for instructional materials designed, written, or prepared by employees as part of their normal workday duties belong to the District. For example, if a District employee's job is to develop an instructional unit on web site evaluation to be used by all ninth graders, the District owns the copyright on the unit. The employee may not copyright and publish it in his or her own name.

Works made for hire and Section 60076 do not apply to lesson plans that employees develop for use in their own classrooms.

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.

This Section has been amended to allow the four fair use criteria to be applied to the use of an unpublished work.

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 so 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.
 4. 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. Reproduction for the Blind or Other People With Disabilities

In 1996, Congress passed the Chafee Amendment that added Section 121 to the Copyright Act. The new section allows authorized entities to reproduce or distribute copies or phonorecords of previously published non-dramatic literary works in specialized formats exclusively for use by the blind or other people with disabilities.

- A. Section 121 specifically defines the terms *authorized entity*, *blind or other persons with disabilities*, and *specialized formats*.
 1. An *authorized entity* is any nonprofit organization or governmental agency whose primary mission is to provide specialized services for the training, education, adaptive reading, or information access needs of the blind or other persons with disabilities.
 2. *Blind or other persons with disabilities* refers to individuals who are eligible or may qualify to receive books and other publications produced in specialized formats in accordance with An Act to Provide Books for the Adult Blind (Public Law 59-522).



3. *Specialized formats* means Braille, audio, or digital text that is exclusively for use by the blind or other persons with disabilities.
- B. The copies or phonorecords covered by Section 121 MUST
 1. NOT be reproduced or distributed in a format other than a specialized format exclusively for use by the blind or other persons with disabilities.
 2. Bear a notice stating that any further reproduction or distribution in a format other than a specialized format is an infringement.
 3. Include a copyright notice that identifies the copyright owner and the date of the original publication.
 - C. Section 121 does NOT apply to standardized, secure, or norm-referenced tests and related testing material.
 - D. Section 121 does NOT apply to computer programs, except for the portions in conventional human language (including descriptions of pictorial works) and displayed to users in the ordinary course of using the computer programs.
 - E. A 1996 fact sheet by the Library of Congress' National Library Service for the Blind and Physically Handicapped further explicates this section of the Copyright Act as follows:
 1. Since *periodicals*, as defined by Section 101 of the Copyright Act, fall within the definition of *literary works*, Section 121 covers periodicals under *nondramatic literary works*.
 2. However, a published script of a play is considered a *dramatic work* or a *dramatic literary work* and, therefore, is NOT covered by Section 121. Permission to reproduce or distribute plays must be sought from the copyright owner.
 3. Section 121 does NOT include music. It also does NOT cover recorded material that is not in a *specialized format*.
 4. The Section does NOT cover large print as its precise definition of *specialized format* is limited to Braille, audio, or digital text that is exclusively for use by the blind or other persons with disabilities.

VII. Fair Use Guidelines for Music

- A. Permissible Uses
 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.
4. A single copy of a recorded performance by students to be retained by the school or individual teacher for evaluation or rehearsal purposes.
5. 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.

VIII. Fair Use Guidelines for Off-Air Videotaping

A. Broadcast Television

1. 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 (see Cable Broadcasts below).
2. Videotaped recordings may be kept for no more than 45 calendar days after the recording date, at which time the tapes must be erased.
3. 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.
4. 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.
5. Schools and separate units are expected to establish appropriate control procedures to maintain the integrity of these guidelines. A sample off-air recording form appears in Attachment D.



6. 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.

B. KLCS-TV

For information about broadcasts for which the District has secured copyright clearance or longer retention rights, please refer to the *KLCS Catalog of Instructional Television Programs and Services* or call Victor Lamkay, KLCS TV, at (213) 625-6958. KLCS-TV is broadcast over-the-air on Channel 58. It is also carried by DirecTV, Dish Network, and most cable companies. Consult your local listings to find KLCS-TV in your area. For more information, visit the website: <<www.klcs.org>>.

C. Cable Broadcasts

For information about cable broadcasts check, e.g., *Cable in the Classroom*, for rights and restrictions.

IX. Guidelines for the Use of Audiovisual Media

For videos, films, DVDs, CD-ROMs, and other audiovisual media 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 or copies of copyrighted materials in other formats, such as DVD, 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 programs taped at home, a record keeping system that guarantees compliance with the federal guidelines is to be developed at the office or school site.



- E. Videocassettes and other audiovisual materials borrowed from the District's AV Media Library or purchased by an office or school site may not be copied or transferred from one format to another.

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 taping.

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, 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 musical 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 artists 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 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 on 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 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 ©1997 by LAUSD.
- c. Include a notice on the opening screen that certain materials are used under fair use and are restricted from further use.

These guidelines do not preempt licenses or contracts.

XI. 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 E.

AUTHORITY: Compliance with the 1976 Copyright Law is a legal mandate.

RELATED RESOURCES: BUL-716 - Compliance with the 1976 United States Copyright Law – Computer Software dated January 8, 2004.

ASSISTANCE: For assistance or further information please contact Sue Quinn, Director, Media Services, at (213) 207-2272; Victor Lamkay, Director, Classroom Instructional Television Services, at (213) 625-6958 x4004; Dr. Esther Sinofsky, Coordinating Field Librarian, Library and Information Services, at (213) 207-2251; Karen Merman, Supervisor, Audiovisual and Educational Software Services, at (213) 207-2226; and Joe Oliver, Technology Applications, at (213) 241-1384.

For additional information regarding guidelines related to computer software, refer to Bulletin No. 716 “Compliance With the 1976 Copyright Law – Computer Software,” dated January 8, 2004, and issued by the Information Technology Division. For additional information regarding Internet usage, refer to Bulletin No. K-19 (Rev.), “Acceptable Use Policy (AUP) for the Internet,” dated March 15, 2002, and issued by the Information Technology Division.

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ATTACHMENT A

SAMPLE COPYRIGHT SCENARIOS

- 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.
- 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 “PrintShop” and similar clip art programs may be used.
- Q. May a teacher caption a television show taped off the air?
- A. Not without permission of the copyright owner.
- Q. May a teacher show a videotape labeled “home use only” to a class? At an assembly?
- 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 fund-raising purposes.
- Q. The school purchases an instructional program that includes audiocassettes. May a back up copy of the audiocassettes be made?
- A. No.
- 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
- 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?

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ATTACHMENT A

- A. No. The History Channel is a subscription-basis channel. It does not broadcast programs for reception by the general public.
- 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.
- Q. The school’s technology coordinator copies the contents of requested World Wide Web sites onto the school’s server. Is this practice permitted?
- A. No.
- Q. A teacher wants to enlarge a book cover illustration for a bulletin board decoration. May the teacher do so using an opaque projector?
- A. No. The book cover illustration is copyrighted.

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

LOS ANGELES UNIFIED SCHOOL DISTRICT SCHOOL
_____ SCHOOL

ORDER FOR PHOTOCOPY OR REPRODUCTION OF INSTRUCTIONAL MATERIALS

Instructor: _____

Department: _____ Room No. _____

Date needed: _____ (one day lead time required)

Deliver to: _____

| TYPE OF COPY | NO. OF ORIGINALS | QUANTITY OF EACH |
|-----------------------|------------------|------------------|
| Photocopy | | |
| Videocassette | | |
| Slides | | |
| Overhead transparency | | |
| Audiocassette | | |
| Other | | |

Specifications for materials: Collated _____ Folded _____ Stapled _____ Punched _____

Other specifications: _____

Original material is copyrighted? Yes _____ No _____

Permission to copy is needed? Yes _____ No _____

The following notice warning of copyright restrictions is required on this form by Section 201.14 or Part 201 or 37 CFR Chapter II of the copyright law:

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.

Instructor's signature: _____

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ATTACHMENT D

(SAMPLE FORM)

LOS ANGELES UNIFIED SCHOOL DISTRICT SCHOOL
_____ SCHOOL

RECORD OF OFF-AIR RECORDING

PROGRAM TITLE: _____

REQUESTED BY: _____

DATE: _____

TIME PROGRAM WILL AIR: _____

CHANNEL: _____

Recording must be used within 10 school days as stated in Section VIII of Bulletin No. 714 "Compliance With the 1976 United States Copyright Law," Office of the Chief Information Officer, issued November 17, 2003. The usage dates for this video are between _____ (date) and _____ (date), unless other arrangements have been made with the copyright holder.

For information about broadcasts for which the District has secured copyright clearance or longer retention rights, please refer to the *KLCS Catalog of Instructional Television Programs and Services* or call Victor Lamkay, KLCS TV, Channel 58, at (213) 625-6958.

Recorded by: _____

Erased by: _____

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ATTACHMENT E

SAMPLE FORM (reduced)

(School or Office Letterhead)

Date

Permissions Department

Name

Address

Dear _____:

Permission is requested to copy the following copyrighted materials for use during the semester/track in my _____ class at _____ School (or Office):

- ◆ 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 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 if 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 _____