

Guidelines for Acceptable Use of Copyrighted Materials

in Jordan School District to Avoid Copyright Infringement

Jordan School District Policy DE505 *Acceptable Use of Copyrighted Materials in Jordan School District* requires that all employees and students be responsible for the legal, ethical, and appropriate use of copyrighted materials. Employees and students who violate the *Copyright Law of the United States of America* (Title 17 of the U.S. Code) or *DE505 Acceptable Use of Copyrighted Materials in Jordan School District* or these *Guidelines for Acceptable Use of Copyrighted Materials in Jordan School District* will be subject to discipline outlined in the policy and may also face legal consequences. The following guidelines define the legal, ethical, and appropriate use of the different types of copyrighted material.

Legal use means that the copyrighted material was:

- Made or acquired legally and, if applicable, was used in accordance with the terms of any licensing agreement.
- Used either with the copyright owner's permission or the use qualified as "fair use" as defined in the Copyright Law of the United States of America (specifically Title 17 of the U.S. Code, Section 107. Limitations on exclusive rights).
- Used for face-to-face classroom teaching as part of regular, systematic, curriculum-based, instructional activities as required by Title 17 of the U.S. Code, Section 110.

Ethical use means that the use of the copyrighted material was:

- A conservative application of fair use in terms of the portion of the work used.
- Properly attributed to the work's creator and, if applicable, the copyright owner.

Appropriate use means that:

- The copyrighted material supported the curriculum-based instructional objectives of the teacher's lesson plan.
- The copyrighted material was age/grade appropriate according to these guidelines.
- Permission procedures were followed if required by these guidelines or for situations where the intended use does not qualify as fair use.

COPYRIGHT

What is Copyright?

Copyright is a set of exclusive rights reserved for the creator of an original work. In the United States, these rights are outlined in Title 17 of the *United States Code* (17 USC).

U.S. Copyright Law (17 USC, Sec. 106) protects the creators of the following types of original works: literary (including computer programming), musical, dramatic, pantomime, choreographic, pictorial, graphic, sculptural, and architectural works; sound recordings; and audiovisual works, including motion pictures. U.S. copyright law gives the work's creator the **exclusive rights** to **reproduce or authorize the reproduction** of the copyrighted work in copies or phonorecords, **create or authorize the creation of derivative works** based upon the copyrighted work; and **distribute or authorize the distribution** of copies or phonorecords to the public through **sale, rental, lease, or lending**. The creator also has exclusive rights to **publicly display or perform** his/her copyrighted work. This includes digital transmission of copyrighted works. The law ensures that the creators have the opportunity to profit from their work. Unauthorized use of copyrighted materials in a way that violates any of these exclusive rights is copyright infringement.

Copyright protection does have limits. While the law identifies the rights that are exclusive to the work's creator, much of the law is devoted to identifying limitations to, and defining the scope of, those exclusive rights. Copyright protection only applies to **"fixed" works**—created works that are fixed in a copy or phonorecord (any material object, including digital, in which sounds are fixed) for the first time (17 USC, Sec. 101 Definitions). Because copyright only applies to works that can be fixed in a visual or sound form, things such as ideas, procedures, processes, systems, methods of operations, concepts, principles, or discoveries cannot be copyrighted. However, the work in which they are communicated, such as a book, diagram, or model, may be copyrighted (17 USC, Sec. 102 Subject matter of copyright: In general). Through this and the other limitations outlined in Sections 107-122, copyright law attempts to balance the needs of the work's creator with the needs of society.

Copyright protection does not apply to **works in the public domain**. A work is in the public domain if it was created prior to the existence of copyright law, such as the works of William Shakespeare; if the copyright has expired; or if the work doesn't qualify for copyright protection, such as works authored by the U.S. government. Works in the public domain may be used freely without permission.

Can an Educator or Student Legally Use Copyrighted Work?

There are several ways educators and students can legally use copyrighted work:

1. **Anyone can request and receive written permission.** To request permission, contact the copyright owner and request written permission to use the copyrighted work. Be specific with regard to the work and amount you want to use, the rights you are requesting, and your intended use of the copyrighted material. If the request is granted, a copy of all correspondence granting the permission must remain on file at the school as verification of the permission. More information about acquiring permission and sample permission requests can be found through the Columbia Copyright Advisory Office (www.copyright.columbia.edu/copyright/permissions).
2. **Anyone may use copyrighted materials as authorized by the copyright owner through such extended non-profit organizations as Creative Commons.** Creative Commons (www.creativecommons.org) is a nonprofit organization that supports the right of copyright owners to choose to reserve "some rights," instead of "all rights," which is typical for traditional copyright licensing. Through a Creative Commons license, copyright owners can define how they want others to use their work. They may choose to extend all rights identified in copyright law (the right to copy, display, perform, distribute, and create a derivative) with (1) **Attribution**, which requires users to attribute the work to its creator, or they may choose to somewhat limit the rights to use their work by also licensing the work as (2) **NonCommercial**, which requires that the work be used for non-commercial purposes, (3) **Share Alike**, which allows derivatives but requires that any distribution of a derivative work be distributed under the same share alike license, or as (4) **NoDerivatives**, which does not allow any alteration, transformation, remix, or augmentation of the original work.

3. **Copyrighted work may be used without permission if the use constitutes “fair use” under the law.** Because the law gives nonprofit educational organizations more leeway to use copyrighted materials, the use of copyrighted materials by educators and students has a greater chance of qualifying as fair use.

FAIR USE

What is Fair Use?

Section 107. Limitations on exclusive rights: Fair use is the first and most general section of U.S. Copyright Law to address copyright limitations. 17 USC 107 identifies **four factors** that are used by the courts to determine if the use of a copyrighted work qualifies as “fair use”:

- (1) The purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational 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 potential market for or value of the copyrighted work.

While Section 107 identifies the factors that must be considered to determine fair use, it does not specifically define any parameters. However, stakeholder groups representing various types of media have collaborated to develop parameters for the third factor regarding the amount of a copyrighted work that may be used without concern for copyright infringement if the use falls within fair use parameters for the other three factors. These parameters have been incorporated into these guidelines.

Who is Responsible for Educating Employees and Students about Fair Use?

Under *Policy DE505 Acceptable Use of Copyright Materials in Jordan School District*, District department administrators and principals are responsible for educating employees, and educators are responsible for educating students, regarding the legal, ethical, and appropriate use of copyrighted materials. The Instructional Support Services Department is responsible for providing educational materials for administrators and teachers to use for this purpose.

Acceptable Use Guidelines by Material Type

NOTE: Some situations, such as using copyrighted materials in musical performances and on closed circuit TV and copying materials for the blind or for library archives, have specific requirements under U.S. Copyright Law. Contact your principal, school library media specialist, or principal’s designee for all situations that are not addressed in these guidelines.

Print Materials

PORTION LIMITATIONS:

- A chapter of a book
- An article from a periodical or newspaper
- A short poem, essay, or short story
- A chart, graph, diagram, cartoon or a picture from a book, periodical or newspaper

WHAT YOU CAN DO (or can do if . . .):

- Make single copies (e.g., photocopy, slide, transparency) for your own study or research.
- Make multiple copies for classroom if:
 - o The copying meets the fair use criteria for brevity, spontaneity, and cumulative effect.
 - o The source and copyright data is cited on each classroom copy.

WHAT YOU CAN’T DO (or can’t do unless):

- Copy or reproduce consumable materials (such as workbooks, tests, activity worksheets) unless copying for classroom use is specified.
- Copy or reproduce masters or sheet music unless you have written permission from the copyright owner.
- Copy printed music except under the supervision of the licensed school media specialist/principal’s designee who is familiar with copyright regulations.
- Modify, enlarge, or convert a copyrighted work (e.g., greeting card, cartoon, page from a coloring book) to another medium.
- Copy or reproduce, in any form, copyrighted or syndicated cartoon characters.
- Narrate an entire copyrighted story onto audiotape or other medium.

Sound Recordings/Music

WHAT YOU CAN DO (or can do if . . .):

- Perform music (directly or play a tape, CD, etc.) and play non-music audio programs as part of face-to-face classroom instruction if the work is legally acquired and directly tied to curriculum lessons or learning activities.

WHAT YOU CAN’T DO (or can’t do unless . . .):

- Reproduce a copyrighted musical work (e.g., tape, CD, etc.) in violation with U.S. Copyright Law (17 USC).
- Convert one media format to another (e.g., transfer a tape to CD).
- Publicly perform a copyrighted work if the performance:
 - o Takes place somewhere other than a classroom, or similar place devoted to instruction, in a nonprofit organization.
 - o Is not part of face-to-face teaching or tied to curriculum lessons or learning objectives (e.g., use of copyrighted musical works for background music in halls).
- Duplicate copyrighted sound recordings for archival, back-up, or multiple uses unless reproduction rights were acquired at the time of purchase.
- Narrate an entire copyrighted story onto audiotape or other medium.
- See **Print Materials** for information on copying sheet music.

Internet Materials

See **Video Material** for information on legal use with regard to streaming vs. downloading and age/grade appropriate use. See **Educational Multimedia Projects** for how to legally incorporate Internet materials into educational multimedia projects.

Web Page Publishing

Obtain permission from the copyright holder and properly cite all sources when using material from other websites. Use clip art and graphics from legally obtained software programs or sites that allow use. Trademarked logos may not be used.

Video Material (excluding television)

Educators may show video material for face-to-face classroom instruction (not for reward or entertainment) that meets the legal, ethical, and appropriate use requirements defined at the beginning of these guidelines. Educators must preview the video material prior to use to ensure the material supports the intended curriculum-based, classroom instructional activities with which the video material will be used and that the video material is content and age/grade appropriate.

DISTRICT INSTRUCTIONAL MEDIA CENTER (IMC) AND eMEDIA VIDEOS:

Appropriate grade levels are identified for each video item in the IMC and eMedia online catalogs. They are defined as part of a formal preview, purchase, and cataloging process.

SCHOOL MEDIA CENTER VIDEOS:

One of the professional roles of library media specialists is to determine content and grade appropriateness for videos purchased for school media centers. Library media specialists are responsible for identifying grade level appropriateness as part of the purchasing and cataloging process.

MOTION PICTURE ASSOCIATION OF AMERICA (MPAA) RATED VIDEOS:

MPAA rated videos are commercial motion pictures produced for theater distribution, which are available for public purchase in other formats (e.g., videocassette, DVD) and have been rated by a parent committee using MPAA established criteria. Jordan School District has identified grade level appropriateness for the use of MPAA rated videos. MPAA rated videos are assigned the appropriate grade level(s) according to the following guidelines as part of the cataloging process:

GRADE APPROPRIATENESS BY MPAA RATING:

- Elementary Schools: Videos with MPAA rating of G
- Middle Schools: Videos with MPAA rating of G. PG-rated videos may only be used after obtaining parent permission.
- High Schools: Videos with MPAA ratings of G and PG. PG-13 videos may only be used after obtaining parent permission.
- Videos with R or NC-17 ratings may not be used with any grade.
- Non-rated movie videos (videos of commercial motion pictures intended for theater distribution that were not rated because they were not submitted to the MPAA for rating or their production predated MPAA ratings) may not be used **unless** the school's principal has approved the use of the video. Prior to approval, a licensed educator must review the video for applicability to the core curriculum, content, and appropriateness for student use and make a rating recommendation. The principal must have written verification of the review, ratings recommendation, and approval on file at the school. If parent permission is required because of the rating, the required permissions must be on file before the video is shown.

STEPS REQUIRED TO SHOW A VIDEO REQUIRING PARENT PERMISSION

- Acquire written principal approval for the intended use, if required, prior to seeking parent permission.
- Notify students' parent/guardian in writing at least five (5) days prior to showing the video. Notification may be sent for individual videos or teachers may include, in their disclosure statement, a list of video titles that will be used in the class, accompanied by the approximate dates for the intended showing of each video. Teachers must indicate a parent/guardian response period of not less than five (5) days. If the teacher is not contacted by a student's parent/guardian within the designated notification period, the teacher shall determine that consent for the student to view the video has been granted.
- Keep correspondence on file from parents who respond that they do not want their child to view the identified video(s) and provide an appropriate alternative assignment for those students.

WHAT YOU CAN DO (or what you can do **if** . . .):

- Show a videocassette/DVD catalogued in the teacher's school media center.
- Show a videocassette/DVD obtained from the IMC **if** it is shown to a grade that is identified in the online IMC catalog as age/grade appropriate.
- Show a digital video accessed through eMedia **if** it is shown to a grade that is identified in the online eMedia catalog as appropriate AND the educator adheres to the terms and conditions defined in the usage agreement for that video.
- Show streamed video material accessed through the Internet **if** the teacher has previewed the video material prior to use and has determined that it supports the intended core curriculum-based, classroom instructional activities with which the video material will be used, and the video material is content and age/grade appropriate AND written verification of the review and rating recommendation is on file at the school.

WHAT YOU CAN'T DO (or can't do **unless** . . .):

- Show personally or privately owned videocassettes/DVDs/digital videos purchased from retail stores/sources or checked out of a public library, including videos labeled "For Home Use Only" **unless** the educator's principal has approved the showing of the video for the specific purpose identified, and the principal has the review, rating/grade level recommendation, and approval on file at the school.
- Show a videocassette/DVD that has been rented from a video store. Jordan School District does not allow the use of rented videos because most rental agreements stipulate "For Home Use Only" and these agreements supersede the educational exemption identified in 17 USC, Sec. 110.
- Show video material downloaded from the Internet in violation of the terms and conditions defined in the usage agreement for that video.
- Use videocassettes/DVDs/digitized videos for public viewing, reward, or entertainment **unless** the school has a public performance site license for that video AND principal approval for the specific showing of the video is on file at the school. (Principals, please confirm that the school has the required license with the Instructional Support Services Department administrator.)
- Use a mechanically edited ("cleaned") video. In 2006, the United States District Court for the District of Colorado ruled that mechanically editing copyrighted movies, and selling copies of such movies, is copyright infringement.
- Convert one media format to another (e.g., videocassette to DVD).

Computer Software

WHAT YOU CAN DO (or can do **if** . . .):

- Copy and use textual and graphic information from purchased clip art software and CD-ROM periodicals, encyclopedias, and online databases if fair use guidelines are followed.
- Install software on multiple machines and distribute it to users via a network **if** the number of simultaneous users does not exceed the number of licenses, and the number of machines being used never exceeds the number of licenses.

WHAT YOU CAN'T DO (or can't do **unless** . . .):

- Use illegally copied software in schools or offices.
- Distribute software to multiple users without a network license if a network license is required.
- Use school equipment to illegally copy software.

Educational Multimedia Projects

PORTION LIMITATIONS:

Text Material

- Up to 10% or 1,000 words, whichever is less
- An entire poem of less than 250 words but no more than 3 poems by one poet or 5 poems by different poets from the same anthology
- 250 words from longer poems, but no more than 3 excerpts from a single poet or 5 excerpts from different poets from the same anthology

Illustrations and photographs

- Up to 5 illustrations or photos by a single artist/photographer
- Not more than 10% or 15 images from a published collective work, whichever is less

Videos (must be age/grade appropriate—See Video Material)

Up to 10% or 3 minutes, whichever is less

Music, lyrics, and music video

Up to 10%, but no more than 30 seconds, of the music and lyrics from an individual musical work

Numerical data sets

Up to 10% or 2,500 fields or cell entries, whichever is less, from a copyrighted database or table

Note: These limitations apply to an educator's/student's projects and are cumulative for the same academic term or year. Grade K-6 students are granted more leeway in their use of copyrighted materials in terms of portion limitations.

WHAT YOU CAN DO if the copyrighted work is legally acquired AND the presentation has a citation page indicating the sources for the materials and images used in the presentation:

Educators:

Educators may incorporate copyrighted materials into multimedia projects for use as teaching tools to support curriculum-based instructional activities at nonprofit educational institutions. These projects may be:

- Used for face-to-face teaching, self-directed study assigned to students, and distance learning instruction (real-time, after class, and/or self-directed study) through the district's secure network that limits access to enrolled students.
- Used for peer presentations, such as conferences.

- Retained in the educator's personal portfolio for later personal use such as a job interview.

Students (K-12 or Adult):

Students may incorporate copyrighted materials into a multimedia project that they create for a specific course and:

- Perform or display the project in the course for which it was created.
- Retain the project in their personal portfolio as an example of academic work for later personal use such as a job interview.

WHAT YOU CAN'T DO (or can't do unless . . .):

Educators:

- Use the multimedia project more than two (2) years after its first use with a class without permission for each copyrighted portion incorporated into the project.
- Make alterations to a musical work that changes the basic melody or fundamental character of the work.
- Make alterations in the portions of the copyrighted works that were incorporated unless the alterations support specific instructional objectives.
- Copy or distribute more than two (2) copies (and only one can be placed on reserve for assigned student self-study), except in the following cases:
 - An additional copy may be made but only used to replace a "use copy" that has been lost, stolen, or damaged.
 - In the case of multiple creators, each creator may have one (1) copy but only for use at peer conferences and inclusion in professional portfolios.

Students:

- Make alterations to a musical work that changes the basic melody or fundamental character of the work.
- Make alterations in the portions of the copyrighted work that were incorporated unless the alterations support specific instructional objectives.
- Copy and distribute these projects.

Broadcast/Cable Television Programs

WHAT YOU CAN DO (or can do if . . .):

- Show broadcast TV programs (e.g., ABC, PBS, local broadcast stations) as part of face-to-face instruction if the program is directly tied to the curricular objectives and is grade appropriate.
- Use an off-air recording of a broadcast TV program as part of face-to-face instruction if the program is directly tied to the curricular objective and is grade appropriate, AND the recording is made under the direct supervision of the principal and/or the principal's designee, AND (1) the taping was requested by the teacher, (2) the program is only used once with each class, (3) the program is used within 10 consecutive school days after it is recorded, and (4) the recording is erased no later than 45 days after the recording date.
- Show cable channel programs (e.g., CNN) as part of face-to-face instruction if the program is directly tied to the curricular objective and is grade appropriate, AND the teacher has requested and received written permission from the copyright owner to show the program, AND the principal and/or principal's designee has the permission on file.
- Use off-air recordings of cable TV programs for face-to-face instruction if the program is directly tied to the curricular objectives and is grade appropriate, AND the program is a "Cable in the Classroom" designated program, AND the program is taped and used according to the

stipulations identified for that specific program.

WHAT YOU CAN'T DO (or can't do unless . . .):

- Make/use a copy/recording of a cable TV program without written permission from the copyright owner.
- Show a taped broadcast program not made under the principal's or principal designee's supervision.
- Show videos/DVDs on closed circuit TV (CCTV) systems except under the direct supervision of the principal/principal's designee.

Distance Learning

Distance education guidelines permit instructors in educational institutions who meet the eligibility conditions to perform and display all types of copyrighted works with some limitations and additional responsibilities for instructors and transmitting institutions to assure compliance with the law. It is the responsibility of distance educators to obtain copyright information and guidance from the principal and/or the principal's designee. Refer to the Technology, Education and Copyright Harmonization (TEACH) Act, November 2, 2002.