

R 2531 USE OF COPYRIGHTED MATERIALS

A. Literary Material

1. A single copy may be made of any of the following by or for a teacher at his/her individual request for scholarly research or for use in teaching or in preparation for teaching a class:
 - a. A chapter from a book;
 - b. An article from a periodical or newspaper;
 - c. A short story, short essay or short poem; whether or not from a collective work; or
 - d. A chart, graph, diagram, drawing, cartoon or picture from a book, periodical, or newspaper.
2. Multiple copies (not to exceed in any event more than one copy per pupil in a course) may be made by or for the teacher giving the course for classroom use or discussion, provided that:
 - a. Each copy includes a notice of copyright; and
 - b. The material copied is brief and the copying is spontaneous and non-cumulative as measured by the following definitions of brevity, spontaneity, and non-cumulative effect.
 - (1) Brevity: A reproduced work is brief if it consists of the following:
 - (a) Poetry: Not more than a complete poem if fewer than 250 words and if printed on not more than two pages, or an excerpt from a longer poem if the excerpt is not more than 250 words. These numerical limits may be expanded to permit completion of an unfinished line of poetry.

- (b) Prose: Not more than a complete article, story, or essay of fewer than 2,500 words; or an excerpt from any prose work of not more than 1,000 words or ten percent of the work, whichever is less, but in any event a minimum of 500 words. These numerical limits may be expanded to permit completion of an unfinished prose paragraph.
 - (c) Illustration: Not more than one chart, graph, diagram, drawing, cartoon, or picture per book or per periodical issue.
 - (d) Special Works: Certain works in poetry, prose or in poetic prose which often combine language with illustrations and which are intended sometimes for children and at other times for a more general audience often fall short of 2,500 words in their entirety. Paragraph 2b(1)(b) above notwithstanding, such special works may not be reproduced in their entirety; however, an excerpt comprising not more than two of the published pages of such special work and containing not more than ten percent of the words found in the text thereof may be reproduced.
- (2) Spontaneity: Reproduction of a copyrighted work is spontaneous if:
- (a) The copying is at the instance and inspiration of the individual teacher; and
 - (b) The inspiration and decision to use the work and the moment of its use of maximum teaching effectiveness are so close in time that it would be unreasonable to expect a timely reply to a request for permission to use the work.

(3) Non-cumulative Effect: Reproduction of a copyrighted work is non-cumulative if:

(a) The copying of the material is for only one course in the school in which the copies are made;

(b) Not more than one short poem, article, story, essay or two excerpts has been copied from the same author or more than three from the same collective work or periodical volume during one class term. This section does not apply to current news periodicals and newspapers and current news sections of other periodicals;

(c) There have been no more than nine instances of such multiple copying for one course during one class term. This section does not apply to current news periodicals and newspapers and current news sections of other periodicals.

3. Notwithstanding any of the above, the following prohibitions shall be in effect:

a. Copying shall not be used to create or to replace or substitute for anthologies, compilations, or collective works. Such replacement or substitution may occur whether copies of various works or excerpts there from are accumulated or reproduced and used separately;

b. There shall be no copying of or from works intended to be consumable in the course of study or of teaching. Consumable works include workbooks, exercises, standardized tests, test booklets, answer sheets, and like material;

c. Copying shall not substitute for the purchase of books, publishers' reprints, or periodicals; or be directed by higher authority; or be repeated with respect to the same item by the same teacher from term to term;

- d. No charge shall be made to the pupil for the copied material.

B. Televised Material

1. A broadcast program may be recorded off-air simultaneously with broadcast transmission (including simultaneous cable retransmission) and retained for a retention period of forty-five calendar days after the date of the recording; at the expiration of the retention period the recording must be erased or destroyed.
2. An off-air recording may be used once by individual teachers in the course of relevant teaching activities and may be repeated once only when instructional reinforcement is necessary, in the classroom or similar place of instruction or the home of a pupil receiving home instruction, during the first ten school days in the retention period. After the first ten school days, an off-air recording may be used during the remainder of the retention period only to permit teachers to evaluate its effectiveness in the instructional period.
3. Off-air recordings may be made only at the request of and used by individual teachers and may not be regularly recorded 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 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 must include the copyright notice on the broadcast program as recorded.
5. Off-air recordings need not be used in their entirety, but the recorded programs may not be altered from their original content. Off-air recordings may not be physically or electronically combined or merged to constitute teaching anthologies or compilations.

C. Pre-recorded Video

The use of commercially pre-recorded video (such as video cassettes and DVD disks rented by commercial enterprises) may be used for instructional purposes without the purchase of a public performance license. Such tapes shall not be used in school situations in violation of the copyright laws which prohibit use for reward or entertainment or in other school activities. The use of such materials for these purposes in the school shall be considered a public performance and require:

1. A blanket license for showing the pre-recorded video obtained from the Motion Picture Licensing Corporation (MPLC) or other group authorized to license the pre-recorded material.
2. A specific license for the showing of a pre-recorded video not covered by a blanket license.

The use of non-commercially pre-recorded video shall require the written permission of the producer of the video prior to its use for other than instructional purposes.

If the requested license or permission has not been obtained, the material shall not be shown in the school.

D. Music

1. The following uses of copies of copyrighted music are permissible.
 - a. Emergency copies of printed music may be made to replace purchased copies which for any reason are not available for an imminent performance provided purchased replacement copies are substituted in due course.
 - b. For academic purposes other than performance:
 - (1) 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 ten percent of the work. The number of copies shall not exceed one copy per pupil.

- (2) A single copy of an entire performable unit (section, movement, aria, etc.) that is
 - (a) Confirmed by the copyright proprietor to be out of print, or
 - (b) Unavailable except in a larger work, may be made by or for a teacher solely for the purpose of scholarly research or in preparation to teach a class.
 - c. Printed copies that have been purchased 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 exist.
 - d. A single copy of recordings of performances by pupils may be made for evaluation or rehearsal purposes and may be retained by the educational institution or individual teacher.
 - e. A single copy of a sound recording (such as a tape, disc, or cassette) of copyrighted music may be made from sound recordings owned by the Commission or by an individual teacher for the purpose of constructing aural exercises or examinations and may be retained by the Commission or the teacher. (This pertains only to the copyright of the music itself and not to any copyright that may exist in the sound recording.)
2. The following uses of copies of copyrighted music are prohibited.
- a. Copying to create or replace or substitute for anthologies, compilations, or collective works;
 - b. Copying of or from works intended to be consumable in the course of study or of teaching such as workbooks, exercises, standardized tests, answer sheets, and like material;
 - c. Copying for the purpose of performance, except as permitted in ¶C1a;

- d. Copying for the purpose of substituting for the purchase of music, except as permitted in ¶C1a and ¶C1b; and
- e. Copying without inclusion of the copyright notice that appears on the printed copy.

E. Computer Software and The Internet

- 1. A software program shall not be copied onto a blank disk except as expressly permitted by the program itself.
- 2. An archival disk may be made as a back-up program disk. The archival disk shall be used only when the original software disk has been mistakenly damaged or destroyed and may not be used for any other purpose.
- 3. Software shall not be loaded into more than one computer at any one time, unless a site license has been purchased to permit loading multiple computers.
- 4. Copyrighted materials shall not be downloaded from the Internet without the express permission of the author and the payment of any required fees.

F. Obtaining Permission for Copying

- 1. A teacher may request and obtain permission to copy material from a copyrighted work; the teacher may then use the work as expressly permitted and will not be bound by the limitations and prohibitions set forth above.
- 2. Request for permission must be in writing and should be sent, together with an envelope addressed to the sender, to the permissions department of the publisher of the work. The request should include:
 - a. The title, author or editor, and edition of materials for which permission is sought;
 - b. The exact material to be used, with specification of amount, page numbers, chapters, including, if possible, a photocopy of the material;

- c. The number of copies the requestor proposes to make;
 - d. The use to be made of the duplicated materials;
 - e. The form of distribution;
 - f. Whether or not the copies will be sold; and
 - g. The process by which the material will be reproduced.
3. A copy of the written permission granted by the publisher or copyright owner shall be preserved by the teacher who may be required to present the written permission to the Principal or designee.
4. Teachers shall inform pupils on the limitations of the use of copyrighted material.