

COPYRIGHT GUIDELINES FOR RICE LAKE AREA SCHOOL DISTRICT

The following guidelines are designed as a reference for teachers, administrators, and staff of the Rice Lake Area School District and are based on research of the websites and publications mentioned at the end of these guidelines. Please consult the sources for clarification and further information. Every effort has been made to insure the accuracy of information included in these guidelines. However, this should not be considered legal advice.

In Rice Lake Area School District Policy #360.2, Use of Copyrighted Materials, the Rice Lake Area School District Board of Education fully endorses Federal Copyright Law which sets the standards for copying print and nonprint media. Every attempt shall be made to live within the law. Inappropriate use of media that is copyrighted is unethical as a model of student learning and violates respect for the letter and the spirit of the law.

WHAT IS COPYRIGHT?

Copyright is a form of protection provided by the laws of the United States (Title 17, U.S. Code) to the authors of “original works of authorship,” including literary, dramatic, musical, artistic, and certain other intellectual works whereby his/her works are protected for a period of his/her lifetime, renewable for an additional 70 years, with the sole and exclusive privilege of reproducing, publishing, and selling them.

A work is protected by copyright law from the moment of its creation. This protection is available for both published and unpublished works.

WHAT IS “FAIR USE?”

Copyright law provides several instances in which reproduction of copyrighted material is allowed. These are considered “fair use exemptions” and are found in Section 107 of the law. “Fair Use” applies four basic standards, which must be considered together when judging whether or not there has been a copyright infringement:

1. *The purpose and character of the use.* The use must be for such purposes as teaching or scholarship and must be nonprofit.
2. *The nature of the copyrighted work.* Staff may make single copies of the following for use in research, instruction or preparation for teaching: articles from periodicals or newspapers; short stories, essays or poems; and charts, graphs, diagrams, drawings, cartoons or pictures from books, periodicals, or newspapers in accordance with these guidelines.
3. *The amount and substantiality of the portion used in relation to the copyrighted work as a whole.* In most circumstances, copying the whole of a work cannot be considered fair use; copying a small portion may be if these guidelines are followed.
4. *The effect of the use upon the potential market for or value of the work.* If resulting economic loss to the copyright holder can be shown, even making a single copy of certain materials may be an infringement, and making multiple copies presents the danger of greater penalties.

Three tests must be considered when determining whether copyright law is being followed. These are for brevity, spontaneity, and cumulative effect.

1. *Brevity*: The test for brevity deals with the amount of material you copy from a work. Different measures apply, depending on whether the work is a poem, prose, or an illustration.
2. *Spontaneity*: The test for spontaneity has to do with time. This means that the copying is done at the instance and inspiration of the individual teacher, and that the decision to use the work and the moment of its use for maximum teaching effectiveness are so close in time that it would be unreasonable to expect a timely reply to a request for permission.
3. *Cumulative Effect*: This deals with the amount of work that is copied over time.
 - 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 may be copied from the same author during the same term.
 - c. Not more than three authors from the same collective work may be copied during the same term.
 - d. There shall not be more than nine instances of such multiple copying for one course during one class term.

Among the most frequently copied items are consumable materials (workbooks, exercises, standardized test booklets and answer sheets). The guidelines state that any such copying, whether single or multiple copies, is not fair use and constitutes a definite infringement.

All copies must contain the notice of copyright present in the original work (i.e. marked with the phrase “NOTICE: This material may be protected by copyright law.”)

PRINT, MUSIC, AND AUDIOVISUAL MATERIALS

Teachers may:

1. Make a single copy of the following:
 - a. A chapter from a book.
 - b. An article from a periodical or newspaper.
 - c. A short story, short essay, or short poem.
 - d. A chart, graph, diagram, drawing, cartoon, or picture from a book, periodical or newspaper.
 - e. A short excerpt (up to 10%) from a performable unit of music such as a song, movement, or section, for study purposes.
2. Make multiple copies (not to exceed one per student) for classroom use of the following:
 - a. A complete poem if less than 250 words.
 - b. A poetic excerpt if less than 250 words.
 - c. A prose excerpt of from 500 to 1,000 words.
 - d. One illustration (chart, graph, drawing, cartoon, or picture) per book or periodical issue.

- e. An excerpt of up to two pages of “special works” containing words and pictures.
 - f. Up to 10% of a performable unit of music (song, movement, section) for academic purposes other than performance.
3. Make a single recording of student performances for evaluation, rehearsal or archival purposes.
 4. Make a single recording of aural exercises or examination questions using excerpts from recorded copyrighted materials
 5. Make an emergency replacement copy to substitute for a purchased copy that is not available for imminent musical performance.

Teachers may not:

1. Copy to make anthologies or compilations or to replace or substitute for them.
2. Copy from works intended to be consumable (workbooks, exercises, standardized test booklets, and answer sheets).
3. Copy to substitute for purchase of books, periodicals, music or recordings.
4. Copy on direction from higher authority (supervisor, coordination teacher, or principal).
5. Copy the same item from term to term without securing permission.
6. Utilize more than nine instances of multiple copying per course, per term.
7. Copy more than one short work or two excerpts from one author’s works in any one term.
8. Employ a successful use of multiple copying developed by another teacher without securing permission from the copyright owner.
9. Make copies of music or lyrics for performance of any kind in the classroom or outside of it, with the emergency exception noted above in item (e) of the “teacher may” section.
10. Copy protected materials without inclusion of a notice of copyright.
11. Charge students more than the actual cost of the authorized copies.

Teachers should not ask other school staff members, to do copying for them that is not fair use and for which no permission is obtained. It may make these individuals liable for the infringement, along with the individual initiating such a request.

Teacher should instruct students about the implications of copyright. Students frequently have occasion to use copying equipment, especially at the high school level, and should be aware of the provision under fair use for copying material used for research and scholarship.

VIDEOTAPING

1. Copies of any of the following video recordings may be made by or at the individual request of a staff member for classroom use:
 - a. “In house” productions.
 - b. Uncopyrighted works or works in the public domain.
 - c. Copies made under “permission to copy” arrangements.
2. The following broadcast television programs may be copied off-air by or at the individual request of a staff member for classroom use:

- a. Instructional television programs (subject to any specific rights limitations).
 - b. Broadcast programs provided they are used within 10 school days of the original broadcast.
 - c. Programs with specified “permission to copy” arrangements.
3. Programs may be copied off cable television only if permission to use a given program has been granted to all educators, or specifically to an individual teacher who has requested said permission. The publication *Cable in the Classroom* should be used to determine which, if any, rights have been granted for educational use.
4. Take the above into consideration, the following shall be prohibited:
- a. Copying from premium channels (HBO, The Disney Channel, Showtime, Cinemax, etc.) or nonbroadcast channels (ESPN, MTV, Nickelodeon, Arts & Entertainment, etc.).
 - b. Duplicating copyrighted video recordings.
 - c. Copying from one format to another (16 mm to videotape, Beta to VHS, disc to videotape, etc.).
 - d. Copying off-air or cable programs for the purpose of entertainment or reward.
 - e. Copying programs off broadcast or cable television at home for use in a school, except as allowed in point two of this section.
 - f. Using illegally obtained copies of video recordings in a school setting.
5. Rented or purchased “Home Use Only” video recordings may be used in the classroom as part of face-to-face instruction only. They may not be used for the purpose of entertainment or reward.
6. The viewing of video recordings with “Public Performance Rights” is not restricted.

COMPUTER SOFTWARE

1. Section 7(b) of Public Law 96-517 grants to the purchaser the right to copy a computer program if and only if:
 - a. Such a copy is essential step in the utilization of the program in conjunction with a machine; or
 - b. The copy is for archival purposes.
2. The following computer software may also be copied by or at the individual request of a staff member for classroom use:
 - a. “In house” productions.
 - b. Uncopyrighted works or works in the public domain.
3. Material may be digitized, using a computer scanner or similar device, if it is uncopyrighted work or a work in the public domain, or if it meets the “fair use” test outlined above.
4. Material may be uploaded or downloaded, if it is uncopyrighted work or a work in the public domain or it meets the “fair use” test outlined above.
5. Notwithstanding the above, the following shall be prohibited:
 - a. Copying copyrighted programs on district equipment.

- b. Using illegal copies of copyrighted programs on district equipment.
 - c. Purchasing programs designed primarily as “break and entry” tools with district, state or federal funds.
 - d. Booting single copies of copyrighted programs into more than one machine without authorization from the copyright holder.
 - e. Using “archival” copies of software as additional copies.
 - f. Digitizing copyrighted material without permission from the copyright holder, using a computer scanner or similar device regardless of whether the copyrighted material is textual, graphic, photographic, video, audio or any other medium.
 - g. Downloading any copyrighted material without permission from the copyright holder from the World Wide Web or other sources.
 - h. Making copies of downloaded (or uploaded) material on other computer storage mediums, such as by copying a downloaded file onto a computer disk or hard drive, without permission from the copyright holder.
6. Staff members shall also adhere to state law provisions concerning the copying of data, information and computer programs or supporting documentation.

MUSIC

1. Permissible uses include:
 - a. Emergency copying to replace purchased copies, which are unavailable for an imminent performance.
 - b. Making copies of excerpts of works for academic purposes.
 - c. Editing or simplifying purchased works provided that the fundamental character of the work is not changed.
 - d. Making a single copy recording of a student performance.
 - e. Making a single copy of a copyrighted sound recording for the purpose of an aural exercise or examination.
2. Notwithstanding the above, the following shall be prohibited:
 - a. Copying to create or replace anthologies.
 - b. Copying of or from works intended to be “consumable” including but not limited to worksheets, exercises, test and answer sheets.
 - c. Copying for the purpose of performance, except for emergency use allowed in point one of this section.
 - d. Copying to substitute for the purchase of material.
 - e. Copying without the inclusion of the copyright notice.

USE OF COPYRIGHTED MATERIALS IN DISTANCE EDUCATION AND ELECTRONIC COURSEWARE

The TEACH Act of 2002 gave instructors at accredited nonprofit educational institutions and governmental bodies teaching via interactive digital networks on campus and at a distance enhanced capability to employ most third party copyrighted works in electronic courseware without the need to secure permission from copyright owners.

PENALTIES FOR INFRINGEMENT OF COPYRIGHT

Substantial penalties are provided for infringement of a copyright.

1. An injunction to stop the infringement is most likely to be the first action.
2. Payment of actual damages for financial loss suffered by the copyright owner may be required.
3. Statutory damages, for which no actual need by proved, may be assessed.

An exception to the statutory damages is made in the case of teachers, provided the teacher believed and had reasonable grounds to believe that it was fair use. In this case, the teacher may be found guilty but the damages do not have to be paid.

SOURCES

“Bellingham School District 501 2314 Board Policy – Copyright Compliance Instruction.”
[Online] <http://www.bham.wednet.edu/policies/2314Procedure.htm> 12 Jan. 2005.

“Copyright and Fair Use in the Classroom, on the Internet, and the World Wide Web.”
[Online] <http://www.umuc.edu/library/copy.html> 12 Jan. 2005.

Copyright Basics Circular from the U.S. Copyright Office.
[Online] <http://www.loc.gov/copyright/circl.html> 12 Jan. 2005.

Copyright Guidelines for Okaloosa County Public Schools, Fort Walton Beach, Florida.
[Online] <http://www.okaloosa.k12.fl.us/technology/standards/teacher/copyinfo.htm>
12 Jan. 2005.

Fair Use Guidelines for Educational Multimedia and Related Documents.
[Online] <http://www.libraries.psu.edu/mtss/fairuse/guidelines.html> 12 Jan. 2005.

Simpson, Carol. *Copyright for Schools: A Practical Guide*. Third edition. Worthington, OH: Linworth Publishing, Inc., 2001. (*Available in the RLHS Library Professional Collection*)

Talab, R. S. *Commonsense Copyright: A Guide for Educators and Librarians*. Second edition. Jefferson, NC: McFarland & Company, Inc., 1999. (*Available in the RLHS Library Professional Collection*)

Templeton, Brad. “A Brief Intro to Copyright.”
[Online] <http://www.templetons.com/brad/copyright.html> 12 Jan. 2005.

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[Online] <http://www.templetons.com/brad/copymyths.html> 12 Jan. 2005.

United States Copyright Office. [Online] <http://www.copyright.gov> 12 Jan. 2005.

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