

Wissahickon School  
 District  
 Ambler, Pennsylvania 19002

SECTION: OPERATIONS  
 TITLE: COPYRIGHT MATERIAL

FIRST READING: March 22, 2010  
 SECOND READING: August 16, 2010  
 ADOPTED: August 16, 2010  
 REVISED:

## 1. Authority

The Board emphasizes that the United States Code makes it illegal for anyone to duplicate copyrighted materials without permission, except as otherwise permitted by law. The Board attests that severe penalties are provided for unauthorized copying of audio, visual, software or printed materials unless otherwise permissible. The Board acknowledges the copyright owner's exclusive rights to reproduce, prepare (alter), distribute, perform and display his/her work. The Board also acknowledges the ability of a potential user to request permission for use of copyright material from the owner. However, in recognition of a responsibility to promote excellence in education, which includes providing the teaching staff with the best available instructional materials, the Board firmly supports the concept of fair use under which the reproduction of works for the purpose of criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship or research is permitted.

## 2. Definition

Under the fair use doctrine, unauthorized reproduction of copyrighted materials is permissible for such purposes as criticism, comment, news reporting, teaching, scholarship or research. If duplicating or changing a product falls within the bounds of fair use, four (4) standards must be met:

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: book chapters 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.
3. *The Amount And Substantiality Of The Portion Used* - Copying the whole of a work cannot be considered fair use; copying a small portion may be if the accompanying guidelines are followed.
4. *The Effect Of The Use Upon The Potential Market For Or Value Of The Copyrighted Work* - If resulting economic loss to the copyright holder can be shown, making even a single copy of certain materials may be an infringement; and making multiple copies presents the danger of greater penalties.

### **3. Delegation of Responsibility**

The complexities of the law and the impracticality of supervising all District duplicating equipment require that each district employee becomes familiar with the copyright requirements and assume responsibility for adherence to this Board policy and the accompanying guidelines. Staff may make copies of copyrighted materials that fall within stated guidelines. Staff members who fail to follow this policy may be held personally liable for copyright infringement.

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### Administrative Guidelines

The following guidelines shall apply to the District's Copyright Material policy:

#### A. Permitted Copies

1. Multiple copies, not exceeding more than one per student, may be made for classroom use or discussion if the copying meets the tests of brevity, spontaneity and cumulative effect. Each copy must include a notice of copyright.
2. A library or archive may reproduce one (1) copy or recording of a copyrighted work and distribute it if:
  - a. Reproduction or distribution is made without any purpose of direct or indirect commercial advantage.
  - b. Collection of the library or archives is open to the public or is available not only to researchers affiliated with the library or archives or with the institution of which it is a part, but also to other persons doing research in a specialized field.
  - c. Reproduction or distribution of a work includes a notice of copyright.
3. Copies of materials for face-to-face teaching activities involving performances or displays made by students or instructors, religious services, live performances without commercial advantage, and the use of instructional broadcasts are permitted, as long as not prohibited by any other District policy.
4. Works are not copyright protected if they are in the public domain, are United States - state or local government publications, or are an idea or method described in a copyrighted work. However, proper credit should always be given to a source.
5. Students will be notified that materials used in connection with a course may be subject to copyright protection.
6. The District will not interfere with technological measures used by copyright owners to prevent the unauthorized use of copyright materials.

**B. Photocopy Machine Notice**

1. The following notice is required to be displayed on or near all library or archival equipment capable of duplicating copyrighted materials. This notice must be visible to anyone using the device:

NOTICE: The copyright law of the United States (Title 17, U.S. Code) governs duplicating copyrighted materials. The person using this equipment is liable for all infringement.

**C. Prohibited Copies**

1. The law prohibits using copies to replace or substitute for anthologies, consumable works or compilations or collective works. Consumable works include: workbooks, exercises, standardized tests, test booklets and answer sheets. Teachers cannot substitute copies for the purchase of books, publishers' reprints or periodicals; nor can they repeatedly copy the same item from term to term. Copying cannot be directed by a "higher authority"; and students cannot be charged more than actual cost of photocopying.
2. Schools must be licensed to play copyrighted music where the performer is paid or admission is charged, even if the admission is used to cover refreshment costs.
3. Juke boxes must be licensed, and a certificate of license must be displayed on each machine.

**D. Off-Air Recordings**

1. Broadcast programs may be recorded off-air simultaneously with broadcast transmission and retained by the district for a period not to exceed forty-five consecutive calendar days after the date of recording. After this period of time, all recordings must be erased or destroyed immediately.
2. Program recordings may be used once by individual teachers in the course of relevant teaching activities, and repeated once only when instructional reinforcement is necessary, during the first ten consecutive school days in the forty-five calendar day retention period.
3. After the first ten consecutive school days, off-air recordings may be used up to the end of the forty-five calendar day retention period only for evaluation purposes by the teacher.
4. Off-air recordings may be made only at the request of and use 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.

5. Off-air recordings need not be used in their entirety; but they may not be altered from their original content and may not be physically or electronically combined or merged to constitute teaching anthologies or compilations. Such recording must include the copyright notice on the broadcast program as recorded.

**E. Videotapes/Optical Discs/Distance Learning/Audio-Visual Delivery Devices**

1. A library, archive, or media center may reproduce one copy of a recording of a copyrighted work and distribute it in accordance with provisions of law. Recorded copies of copyrighted programs owned by a staff member or another person or a copy of a rental program are considered illegally made and cannot be used for instruction purposes that meets the fair-use test. Rental videocassettes, laser discs and other optical media with the "home use only" warning label may not be used in a classroom, school assembly, or club unless specifically covered in the rental agreement.
2. Multimedia use of copyrighted material falls under the guidelines of the medium being used (e.g. computer, video, audio).
3. Closed-circuit distribution of a copyrighted work to classrooms in a school or campus is legal, as long as the transmission is used for instructional activity and not entertainment.
4. Off-air taping of broadcast programs is permitted to educational institutions for programs broadcast to the general public. Pay cable TV services and satellite reception of programming which is available at an extra charge are not allowed without permission from the copyright owner.

Satellite reception of programming is subject to the same guidelines as off-air broadcasts.

**F. Distance Learning**

1. Distance learning is subject to copyright guidelines if copyrighted material is copied or recorded during a transmitted lesson.
2. The District will permit the transmission of copyrighted materials pursuant to these guidelines to only those students enrolled in the distance learning course and when the material is related to the curriculum, to the extent technologically feasible.
3. Students will be notified that materials used in connection with a course may be subject to copyright protection.

4. Technological measures will be applied by the District to ensure that copyrighted material is accessible to recipients only as long as class is permitted to use the material.
5. The District will not interfere with technological measures used by copyright owners to prevent unauthorized retention or dissemination.

**G. Computer Software**

1. Copies of software including those downloaded via modem, other than "public domain" software, cannot be made without the permission of the vendor or copyright owner.
2. Illegal copies of copyrighted programs may not be made or used on school equipment.
3. A computer program may be legally copied only for the following reasons:
  - a. It is created as an essential step in the use of the computer program, such as automatic copying into memory when a program is loaded.
  - b. It is created as a backup or archival copy only. All backup and archival copies must be destroyed in the event the original program is erased or removed from inventory.
4. Backup or archival copies may not be used simultaneously with the original program.
5. Copying a copyrighted program from a computer hard drive to a floppy disc, for use as an additional copy, is illegal.
6. Booting computer software in more than one machine at a time is unclear in the law. It is prudent to refrain from this practice until the law is clarified. **Booting** is defined as the loading of a computer program into the memory of a computer.
7. Networking computer software is also illegal if the legal multiple user or site licenses have not been acquired from the vendor or copyright owner. Networking is the use of a single program in a single computer that is connected to other computers, permitting the program to be used simultaneously in more than one computer.
8. Reproduction of original computer software manuals is also illegal, and copying must abide by the fair use guidelines.

9. The District will provide expenditures for software as a budgetary item. Priority will be given to software which supports and/or is critical to curriculum or operating needs. All other software will be purchased if reasonable need is established and/or financial resources allow such purchase.
10. Renting or leasing original copies of software by individuals without the express permission of the copyright owner is illegal.

## **H. Web Publishing**

1. Copyright law applies to images, graphics and words placed on the web in any form, multimedia and otherwise, or in distributing projects to others over electronic networks.
2. When publishing to the web, students and employees will:
  - a. Document sources.
  - b. Obtain permission from the copyright holder.
  - c. Check to see if the source is in the public domain or available for free use; for example, government agencies at .gov web sites.
  - d. Use their own graphics with original art or digital pictures.
3. Students and employees must not link to another web site and represent the other web site as their content, whether by deep-linking, framing or any other means.
4. Students and employees must notify the technology department about any infringing material contained on the school's web site. Additionally, the designated person must respond to complaints and remove/disable materials that infringe the copyrights of others.
5. The internet access of students and employees may be terminated for copyright infringement; additionally other disciplinary actions may be taken in accordance with federal, state and/or local law or applicable District policy and/or guidelines. The District reserves the right to report any copyright infringement by a student or employee to the Internet Service Provider, and/or local, state or federal authorities.

## **I. Other Resources**

1. Assorted questions and answers regarding copyright issued by the United States Copyright Office are attached for reference purposes.

## FREQUENTLY ASKED QUESTIONS AND ANSWERS UNITED STATES COPYRIGHT OFFICE

**These questions and answers are included for reference only and are not part of the Wissahickon School District's Copyright Material policy or administrative guidelines.**

### **What is copyright?**

Copyright is a form of protection grounded in the U.S. Constitution and granted by law for original works of authorship fixed in a tangible medium of expression. Copyright covers both published and unpublished works.

### **What does copyright protect?**

Copyright, a form of intellectual property law, protects original works of authorship including literary, dramatic, musical, and artistic works, such as poetry, novels, movies, songs, computer software, and architecture. Copyright does not protect facts, ideas, systems, or methods of operation, although it may protect the way these things are expressed. See Circular 1, *Copyright Basics*, section "[What Works Are Protected](#)."

### **How is a copyright different from a patent or a trademark?**

Copyright protects original works of authorship, while a patent protects inventions or discoveries. Ideas and discoveries are not protected by the copyright law, although the way in which they are expressed may be. A trademark protects words, phrases, symbols, or designs identifying the source of the goods or services of one party and distinguishing them from those of others.

### **When is my work protected?**

Your work is under copyright protection the moment it is created and fixed in a tangible form that it is perceptible either directly or with the aid of a machine or device.

### **How do I get permission to use somebody else's work?**

You can ask for it. If you know who the copyright owner is, you may contact the owner directly. If you are not certain about the ownership or have other related questions, you may wish to request that the Copyright Office conduct a search of its records or you may search yourself. See the next question for more details.

### **How much of someone else's work can I use without getting permission?**

Under the *fair use* doctrine of the U.S. copyright statute, it is permissible to use limited portions of a work including quotes, for purposes such as commentary, criticism, news reporting, and scholarly reports. There are no legal rules permitting the use of a specific number of words, a certain number of musical notes, or percentage of a work. Whether a particular use qualifies as fair use depends on all the circumstances. See [FL 102](#), Fair Use, and [Circular 21](#), *Reproductions of Copyrighted Works by Educators and Librarians*.

### **How much do I have to change in order to claim copyright in someone else's work?**

Only the owner of copyright in a work has the right to prepare, or to authorize someone else to create, a new version of that work. Accordingly, you cannot claim copyright to another's work,

no matter how much you change it, unless you have the owner's consent. See [Circular 14, Copyright Registration for Derivative Works](#).

### **Somebody infringed my copyright. What can I do?**

A party may seek to protect his or her copyrights against unauthorized use by filing a civil lawsuit in federal district court. If you believe that your copyright has been infringed, consult an attorney. In cases of willful infringement for profit, the U.S. Attorney may initiate a criminal investigation.

### **Could I be sued for using somebody else's work? How about quotes or samples?**

If you use a copyrighted work without authorization, the owner may be entitled to bring an infringement action against you. There are circumstances under the [fair use](#) doctrine where a quote or a sample may be used without permission. However, in cases of doubt, the Copyright Office recommends that permission be obtained.

### **Is it legal to download works from peer-to-peer networks and if not, what is the penalty for doing so?**

Uploading or downloading works protected by copyright without the authority of the copyright owner is an infringement of the copyright owner's exclusive rights of reproduction and/or distribution. Anyone found to have infringed a copyrighted work may be liable for statutory damages up to \$30,000 for each work infringed and, if willful infringement is proven by the copyright owner, that amount may be increased up to \$150,000 for each work infringed. In addition, an infringer of a work may also be liable for the attorney's fees incurred by the copyright owner to enforce his or her rights.

Whether or not a particular work is being made available under the authority of the copyright owner is a question of fact. But since any original work of authorship fixed in a tangible medium (including a computer file) is protected by federal copyright law upon creation, in the absence of clear information to the contrary, most works may be assumed to be protected by federal copyright law.

Since the files distributed over [peer-to-peer](#) networks are primarily copyrighted works, there is a risk of liability for downloading material from these networks. To avoid these risks, there are currently many "authorized" services on the Internet that allow consumers to purchase copyrighted works online, whether music, ebooks, or motion pictures. By purchasing works through authorized services, consumers can avoid the risks of infringement liability and can limit their exposure to other potential risks, e.g., viruses, unexpected material, or spyware.

### **Can a school show a movie without obtaining permission from the copyright owner?**

If the movie is for entertainment purposes, you need to get a clearance or license for its performance. It is not necessary to obtain permission if you show the movie in the course of "face-to-face teaching activities" in a nonprofit educational institution, in a classroom or similar place devoted to instruction, if the copy of the movie being performed is a lawful copy. [17 U.S.C. § 110\(1\)](#). This exemption encompasses instructional activities relating to a wide variety of subjects, but it does not include performances for recreation or entertainment purposes, even if there is cultural value or intellectual appeal.

### **Can I backup my computer software?**

Yes, under certain conditions as provided by section 117 of the Copyright Act. Although the precise term used under section 117 is “archival” copy, not “backup” copy, these terms today are used interchangeably. This privilege extends only to computer programs and not to other types of works.

Under section 117, you or someone you authorize may make a copy of an original computer program if:

- the new copy is being made for archival (i.e., backup) purposes only;
- you are the legal owner of the copy; and
- any copy made for archival purposes is either destroyed, or transferred with the original copy, once the original copy is sold, given away, or otherwise transferred.

You are not permitted under section 117 to make a backup copy of other material on a computer's hard drive, such as other copyrighted works that have been downloaded (e.g., music, films).

It is also important to check the terms of sale or license agreement of the original copy of software in case any special conditions have been put in place by the copyright owner that might affect your ability or right under section 117 to make a backup copy. There is no other provision in the Copyright Act that specifically authorizes the making of backup copies of works other than computer programs even if those works are distributed as digital copies.

### **Is it legal to sell backup copies of computer software (in online auctions or on website)? Is it legal to buy and use a backup copy of software I already own?**

No. The Copyright Act does not permit anyone to sell backup copies to third parties separately from the original copy of the software. If you lawfully own a computer program, you may sell or transfer that lawful copy together with a lawfully made backup copy of the software, but you may not sell the backup copy alone.

We have been made aware of websites that are offering to sell “backup” copies of software via download over the Internet or in a custom-burned CD-R format, under the guise that section 117 permits this. Section 117 does NOT permit the sale of backup copies. Again, section 117 does not allow you to sell backup copies to someone else except when such backup copies are sold together with the original lawfully owned copy. It does not allow anyone to solely distribute “backup” copies to the public. In addition to being a violation of the exclusive right of distribution, such activity is also likely to be a violation of the terms of the license to the software. In many cases these sites appear to be a front for distribution of illegal copies, which is copyright infringement. You should be wary of sites that offer to sell you a backup copy.

And if you do buy an illegal backup copy, you will be engaging in copyright infringement if you load that illegal copy onto your computer, i.e., the unauthorized reproduction of the infringing computer program into memory. Lesson: if you want a backup copy of a lawfully owned computer program, back it up yourself.

**Is it legal to download works from peer-to-peer networks and if not, what is the penalty for doing so?**

Uploading or downloading works protected by copyright without the authority of the copyright owner is an infringement of the copyright owner's exclusive rights of reproduction and/or distribution. Anyone found to have infringed a copyrighted work may be liable for statutory damages up to \$30,000 for each work infringed and, if willful infringement is proven by the copyright owner, that amount may be increased up to \$150,000 for each work infringed. In addition, an infringer of a work may also be liable for the attorney's fees incurred by the copyright owner to enforce his or her rights.

Whether or not a particular work is being made available under the authority of the copyright owner is a question of fact. But since any original work of authorship fixed in a tangible medium (including a computer file) is protected by federal copyright law upon creation, in the absence of clear information to the contrary, most works may be assumed to be protected by federal copyright law.

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