

## Regulation Code: 3330-R Copyrighted Materials Guidelines - Regulations

### Copyrighted Interpretation

#### A. Fair Use.

The copyright law makes it illegal for anyone to duplicate copyrighted materials whether in audio, electronic, visual, or printed form. Severe penalties are provided for unauthorized copying outside the bounds of "Fair Use." "Fair Use" includes four conditions, all of which must be met, if duplicating or changing a product meets the criteria for "Fair Use."

The four standards which must be complied with if the doctrine of "Fair Use" is satisfied are:

1. The purpose and character of the use. The use must be for such purpose as face to face teaching or scholarship and must be nonprofit. "Fair Use" might allow teachers acting on their own to copy small portions of a work for the classroom, but will not allow a school system or institution to do so.
2. The nature of the copyrighted work. Copying from a consumable workbook designed for a course of study would not be considered "Fair Use."
3. The amount and substantiality of the portion used in relation to the whole. Copying the whole of a work would not be considered "Fair Use;" copying a small portion may be considered "Fair Use." Extracting a short sequence from a video tape may be different than using a short excerpt from a textbook, because, two minutes out of the 20-minute video may be the very essence of that production; so a quantitative test is not enough.
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 a single copy of certain materials would result in penalties. Making multiple copies would result in greater penalties.

Changing the form of copyrighted materials from one format to another is a violation of the copyright act.

Any time that materials are duplicated, permission should be requested from the copyright holder, even if materials fall under the "Fair Use" standard. If the criteria for reproducing materials through "Fair Use" cannot be met, written permission from the copyright owner must be obtained.

#### B. Concept.

The Johnston County Board of Education does not sanction any illegal duplication of materials. Persons who duplicate materials unlawfully do so at their own personal risk. All personnel employed by the Johnston County Board of Education shall be expected to comply with the copyright laws and its policy in the duplication of materials for educational purposes.

#### C. Responsibilities.

The principal shall establish school use policies that are in keeping with the copyright guidelines and the policies of the Johnston County Board of Education.

#### D. Copying Guidelines for Printed Matter.

Certain kinds of documents may be copied without restriction. Published works which were never copyrighted, published works whose copyrights have expired, and U.S. Government publications (not to include works published by others who received U.S. Government grants or contracts) may be copied at the discretion of the user.

Under certain guidelines, reproduction of copyrighted material for educational and scholarly use is permitted for purposes of criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research, and is not an infringement of copyright.

1. Guidelines for single copies for educators for scholarly research, use in teaching, or in preparation to teach include:

- a. Up to 10% of a copyrighted work or 1000 words, whichever is less
- b. Poems:
  - entire poem if less than 250 words
  - 250 words or less if longer poem
  - no more than 5 poems (or excerpts) of different poets, from an anthology
  - only 3 poems (or excerpts) per poet
- c. A chart, graph, diagram, drawing, cartoon, or picture from a book, periodical or newspaper.
- d. A chapter from a book
- e. An article from a newspaper or periodical

2. Multiple copies made by a teacher for classroom use or discussion must meet these tests:

- a. brevity - usually no more than 10% of the entire work;
- b. spontaneity - the copying is at the instance and inspiration of the teacher and time does not permit a reply to a request for permission to reproduce the work;
- c. cumulative effect -
  - copying is for only one course in the school and does not exceed one copy per student in a course;
  - not more than one short item or two excerpts may be copied from the same author, nor more than three from the same collective work or periodical issue during one class term;
  - no more than nine instances of multiple copying for one course during one class term.
- d. each copy includes a notice of copyright.

(For further use, permission is required.)

3. Prohibitions:

- a. Copying to create, 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 teaching, such as workbooks, exercises, standardized tests, answer sheets, and like materials.
- c. Copying to substitute for the purchase of copyrighted materials.
- d. Copying at the direction of higher authority.
- e. Copying the same item by the same teacher from term to term.
- f. Charging students beyond the actual cost of photocopying.

## **E. Copyright Guidelines for Educational Use of Music Materials.**

1. Permissible Uses:

- a. Emergency copying to replace purchased copies which for any reason are not available for an imminent performance provided purchased replacement copies shall be substituted in due course.

b. For academic purposes other than performance, single or 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 of aria, but in no case more than 10 percent of the whole work. The number of copies shall not exceed one per pupil.

c. Printed copies which 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 students 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, disk, cassette, CD, etc.) of copyrighted music may be made from sound recordings owned by an educational institution or an individual teacher for the purpose of constructing aural exercises or examinations and may be retained by the educational institution or individual teacher. (This pertains only to the copyright of the music itself and not to any copyright which may exist in the sound recording.)

## 2. Prohibitions:

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 and answer sheet, and like material.

c. Copying for the purpose of performance, except as mentioned above.

d. Copying for the purpose of substituting for the purchase of music, except as above.

e. Copying without inclusion of the copyright notice which appears on the printed copy.

## F. Guidelines for Videocassette Use.

### 1. School Television Programs:

All series airing on the School Television schedule have copyright clearance for the public schools in North Carolina. The State Department of Public Instruction negotiates broadcast rights, off air recording rights, and in some cases, videocassette duplication rights with the producers of the series. The copyright status appears on each fact sheet in the catalog, SCHOOL TELEVISION TODAY. The series fall into one of two copyright categories:

Unlimited Uses designates a series that is owned by the Department of Public Instruction; programs in the series may be taped off air or taped from the DPI copies. These may be retained on tape for as long as the users want to use the series.

Designated Time Period Use designates a series that may be taped off-air and retained on tape for as long as that series airs on the School Television schedule. Broadcast and record rights are negotiated periodically; school personnel are notified when the tapes are to be erased.

In addition to off-air record rights, the Department of Public Instruction has purchased tape duplication rights for about ninety percent of the series airing on the School Television schedule. Schools may purchase these programs on videotape.

### 2. Non-school Television Programs:

The North Carolina Department of Public Instruction has no copyright jurisdiction over programs NOT airing on the School Television schedule. There are many questions and interpretations concerning the right of educational institutions to tape and use such programs. The guidelines are as follows:

a. Off-air recording guidelines apply only to non-profit educational institutions.

- b. A broadcast may be recorded simultaneously with the broadcast transmission and retained for a period of 45 calendar days after the date of recording. Upon conclusion of the retention period, all off-air recordings must be erased or destroyed.
  - c. Off-air recordings may be used once by individual teachers in the course of relevant teaching activities. It may be repeated once and only once when instructional reinforcement is necessary in the classrooms and similar places devoted to instruction within a single building, cluster or campus as well as in the homes of students during the first ten consecutive school days after recording.
  - d. 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 programs may be recorded more than one time regardless of the number of times it is broadcast.
  - e. A limited number of copies may be reproduced from each recording to meet the legitimate needs of teachers under these guidelines. Each such copy shall be subject to all provisions governing the original off-air recording.
  - f. After the first ten consecutive school days, the only use that can be made of the recording is teacher evaluations. This evaluation is to be used to determine the likelihood of using programs in the series or purchasing a copy of the program.
  - g. Off-air recordings need not be used in their entirety. The sequence of use must follow the order of the program and the recording may not be altered.
  - h. All copies of off-air recordings must include the copyright notice on the broadcasts program as recorded.
  - i. Each school shall maintain a record of teacher requests for off-air recordings, the dates and programs recorded, the dates shown, and the dates of destruction of the recordings.
3. Privately purchased or rented video tapes.
- a. Privately purchased videos with a home use only agreement may not be shown at school.
  - b. Rented videotapes to be shown at school should be only for face to face instruction. The video shall be rented in the school's name, using a school-owned card.
  - c. Showing of rented videos require a prior approval form signed by the principal.
  - d. Disney entertainment films may not be shown for student viewing. Educational videos from the Educational division of Disney, e.g., Bill Nye, the Science Guy, are acceptable.

### **G. Guidelines for Taping PBS Programs.**

Several years prior to the establishment of the 10 day Fair Use Guidelines, the Public Broadcast Service (PBS), negotiated with various entertainment unions and producers the rights to offer 7-Day School Re-record Rights for some PBS programming. Many programs and series presently distributed by PBS through its member stations include 7-Day School Re-record Rights whose criterion are slightly different than those for the 10-Day Fair Use.

The 7-Day School Re-record rights allow the following:

1. Programs may be recorded without prior request from a teacher and may be recorded and exhibited each time a program is broadcast.
2. Only a single copy of the program can be recorded by an educational institution and that copy cannot be duplicated.
3. The program can be retained for a total of 7 consecutive days following its broadcast, each time it is broadcast, but must be erased at the end of the 7-day period.

4. Teachers may exhibit the programs as often as needed during the 7-day period.

## **H. Guidelines for Software.**

The owner of a copy of a computer program may make another copy of the program only under the following circumstances:

1. That such a copy is created as an essential step in the utilization of the computer program in conjunction with a machine and that it is used in no other manner.
2. That such a copy is for archival purposes only and that all archival copies are destroyed in the event that continued possession of the computer program should cease to be rightful.
3. A legal copy of any program must be purchased for each computer on which it is used, whether it is stand-alone or networked, whether it has a floppy drive or a CD-rom drive. One back-up copy (archival copy) can be made. Software installation will only be done under the supervision of Johnston County Schools Technology Services Department or their designee.
4. Privately purchased software with a home use only and-or one user only may not be installed on school owned computers.

## **I. Guidelines for Multimedia.**

Copyrighted works may be used in multimedia productions under the "Fair Use" exemption under these guidelines:

### **Text**

Same guidelines as for printed materials.

### **Illustrations and Photographs**

1. A photograph or illustration may be used in its entirety.
2. No more than 5 images of an artist's or photographer's work may be duplicated.
3. When using a collection, no more than 10% or no more than 15 images, whichever is less, may be duplicated.

### **Motion Media**

1. Up to 10% of a copyrighted work or 3 minutes, whichever is less.
2. Clip cannot be altered in any way.

### **Music**

1. Up to 10% of a copyrighted musical composition or sound recording, but no more than 30 seconds.
2. Any alterations cannot change the basic melody or fundamental character of the work.

### **Internet**

1. Internet resources often combine both copyrighted and public domain sites; therefore care should be used in downloading any sites for use in multimedia presentations.
2. Until further clarification, educators and students are advised to write for permission to use Internet resources and to be mindful of the copyright ramifications of including embedded additional links to that particular site.

### **Numerical Data Sets**

1. May use up to 10% or 2500 fields or cell entries, whichever is less, from a copyrighted database or data table.
2. A field entry is defined as a specific item of information (e.g., name, Social Security number) in a record of a database file.
3. A cell entry is defined as the intersection where a row and a column meet on a spreadsheet.

### **Copying and Distribution Limitations**

1. Do not post multimedia projects claiming "fair use" exemption on an unsecured web site.
2. No more than 2 copies of the original production may be made.
3. Only 1 may be placed on reserve for others to use for instructional purposes.
4. An additional copy may be made for preservation purposes, and may be used or copied only to replace a use copy that has been lost, damaged, or stolen.
5. If more than one person has created the multimedia presentation, each principal creator may retain only one copy.

### **Alteration Limitations**

1. Multimedia selections falling within the above guidelines may be altered to illustrate a specific technique or to support a specific instructional objective.
2. Notation of the alteration should be documented within the presentation itself.

### **Multimedia Presentation Citations**

1. Educators and students must credit sources, giving full bibliographic information when available.
2. Educators and students must display the copyright notice and copyright ownership information if this is shown in the original source.
3. Copyright information for images may be shown in a separate bibliographic section unless the presentation is being used for distance learning. In this case, the information must be incorporated within the image itself (i.e., it must appear on the screen when the image is viewed).

### **Notice of Use Restrictions**

1. The opening screen of a program and any accompanying print material must include a notice that:
  - a. certain materials are included under the "fair use" exemption of the U.S. Copyright Law;
  - b. materials are included in accordance with the multimedia "fair use" guidelines; and
  - c. materials are restricted from further use.
2. If there is a possibility that a project could result in broader dissemination, whether or not as a commercial product, individuals should take steps to obtain permission during the development process rather than waiting until after completion of the project.

### **Permission Requirements**

1. Must be obtained for multimedia projects used for non-educational or commercial purposes, or
2. For duplication or distribution of multimedia projects beyond limitations outlined above.

References: U.S. Copyright Law; Reproduction of Copyrighted Works by Educators and Librarians, U.S. Copyright Office (Circular 21); Copyright in an Electronic Environment, Department of Public Instruction

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**JOHNSTON COUNTY SCHOOLS**