
AURORA PUBLIC SCHOOLS
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APS Code: EGAD

COPYRIGHT COMPLIANCE

The District reserves the copyright on educational and other materials developed by District employees and non-District persons who are paid to conduct a specific project or given release time at District expense to conduct a specific project. Independent contractors who are paid by the District to develop materials are also covered by this policy. Unless written agreement between the District and the author of the materials specifically assigns the copyright to the author, the District holds the copyright on any materials developed.

Educational materials include, but are not limited to, written, printed, electronic, audio-visual and/or manipulative materials intended for use by administrators, teachers or students.

The District may decide to register the copyright on selected materials in order to:

1. Protect potential benefits to the District through the publications of educational materials; and/or
2. Ensure the copyrights issued and royalties received will be in the name of the District.

Copyright laws govern the use of print and non-print materials, including multimedia and computer software. Violating copyright laws, including the unauthorized copying of software and software piracy, is illegal and violates this policy. Unauthorized duplication may subject both the District and individuals involved to civil damages and criminal penalties. Employees who violate this policy or the copyright laws may be subject to discipline up to and including termination.

The Superintendent is charged with developing regulations to accompany this policy and to comply with statute and minimize potential damages and penalties. Nothing in this policy or the accompanying regulations is intended to limit the right of the District or its employees to make copies co-extensive with the doctrine of "fair use" under U.S. law.

LEGAL REFS: U.S.C. Title 17 §101 et seq., 1992
Agreement on Guidelines for Classroom Copying in Not-for-Profit Educational Institutions, 3/19/76, printed as H.R. Rep. No 1476, 94th Cong., 2d Sess. 81 (1976)

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Copyright materials are those materials (print and nonprint), including electronic, to which generally incorporate a notice of copyright. Personnel desiring to utilize copyrighted materials for instructional purposes shall be subject to the following procedures:

I. Single Copies for Teachers

A single copy may be made of the following material by or for a teacher, to be used in scholarly research, teaching or preparation for a class:

- A. Chapter from a book;
- B. Article from a periodical or newspaper;
- C. Short story, essay or poem, whether or not from a collective work; and
- D. Chart, graph, diagram, drawing, cartoon or picture from a book, periodical or newspaper.

II. Multiple Copies for Classroom Use

Multiple copies (not to exceed more than one (1) copy per pupil in a course) may be made by or for a teacher for classroom use provided that:

- A. The copying meets the tests of brevity and spontaneity as defined below;
- B. Meets the cumulative effect test as defined below; and
- C. Each copy includes a notice of copyright.

Definitions

Brevity

1. **Poetry:** (a) A complete poem if less than two hundred and fifty (250) words and printed on not more than two (2) pages, or (b) from a longer poem, an excerpt of not more than two hundred and fifty (250) words.

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2. **Prose:** (a) A complete article, story or essay of less than two thousand, five hundred (2,500) words, or (b) an excerpt from any prose work of not more than one thousand (1,000) words or ten (10) percent of the work, whichever is less, but with a minimum of five hundred (500) words.

(Each of the numerical limits stated above may be expanded to permit the completion of an unfinished line of a poem or prose paragraph.)

3. **Illustration:** One (1) chart, graph, diagram, drawing, cartoon or picture per book or periodical issue.
4. **Special Works:** Certain works of poetry, prose or poetic prose which combine language with illustrations and are intended for children, as well as a more general audience, fall short of two thousand, five hundred (2,500) words in their entirety. Paragraph II.2 above notwithstanding, such special works may not be reproduced in their entirety. However, an excerpt comprising not more than two (2) of the published pages of such special works and containing not more than ten (10) percent of the words found in the text thereof may be reproduced.

Spontaneity

1. Copying is at the inspiration of the individual teacher.
2. Inspiration and decision to use the work and the moment of its use for maximum teaching effectiveness are so closely related that it would be unreasonable to expect a timely reply to a request for permission.

Cumulative Effect

1. Copying of the material is only for one (1) course in a school.
2. Not more than one (1) short poem, article, story, essay, or two (2) excerpts may be copied from the same author; and not more than three (3)

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from the same collective work or periodical volume, during one (1) class term.

3. There shall be not more than nine (9) instances of such multiple copying for any class during a class term.

(The limitation stated in 2. and 3. under "Cumulative Effect" above shall not apply to current news periodicals.)

III. Prohibitions Relating to I and II

Notwithstanding the above, the following shall be prohibited:

- A. Copying shall not be used to create, replace or substitute for anthologies, compilations or collective works. Such replacement or substitution may occur whether copies of various works or excerpts therefrom are accumulated, or reproduced and used separately;
- B. There shall be no copying of works intended to be consumable in the course of study or teaching, such as workbooks, exercises, standardized tests, test booklets, answer sheets and like material;
- C. Copying shall not:
 1. Substitute for the purchase of books, reprints or periodicals,
 2. Be directed by higher authority, or
 3. Be repeated with respect to the same item by a teacher from term to term; and
- D. No charge shall be made to the student beyond the actual cost of the photocopy.

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IV. Guidelines for Educational Use of Copyrighted Music Materials

A. Permissible Uses

1. Emergency copying to replace purchased material which is not immediately available, provided purchased replacement copies are substituted in due time.
2. For academic purposes other than performance, single or multiple copies of excerpts may be made, provided the excerpts do not comprise a part of the whole which could constitute a performance unit, such as a selection, movement or aria, not to exceed ten (10) percent of the entire work. The number of copies shall not exceed one (1) copy per pupil.
3. Printed copies which have been purchased may be edited or simplified, provided the fundamental character of the work is not distorted and the lyrics altered or added to.
4. A single copy of performance recordings by students may be made for evaluation or rehearsal purposes and retained by the educational institution or teacher.
5. 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 educational institution or teacher for the purpose of preparing aural exercises or examinations. (This pertains to the music copyright only and not to the copyright on the sound recording.)

B. Prohibitions

1. Copying to create, replace or substitute for anthologies, compilations or collective works.

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2. Copying from works intended to be consumable in the course of study or teaching, such as workbooks, exercises, standardized tests, answer sheets and like material.
3. Copying for the purpose of performance, except as in IV.A.1 above.
4. Copying for the purpose of substituting for the purchase of music, except as in IV.A.1 and IV.A.2 above.
5. Copying without inclusion of the copyright notice which appears in the printed copy.

(The word teacher in the guidelines includes librarians and other instructional specialists working with teachers.)

V. Rerecording of Noncommercial and Instructional Television Programs

- A. School rerecordings may be made only by students, teachers or faculty.
- B. School rerecordings shall be used solely for classroom, auditorium or laboratory exhibition in the course of instruction or related educational activities.
- C. School rerecordings shall be used only in the educational institution for which made and will not be given, loaned or otherwise made available outside that educational institution.
- D. School rerecordings shall be maintained for no more than seven (7) days and will be erased or destroyed at that time or sooner, except as authorized by advance written notice.

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(Excluded from rerecording shall be those programs for which prohibition exists by reason of production or distribution rights restrictions.)

VI. Guidelines for Off-Air Recording of Broadcast Programming for Educational Purposes

- A. A broadcast program may be recorded off-air simultaneously with broadcast transmission and retained by a District employee for educational purposes for a period not to exceed the first forty-five (45) consecutive calendar days after the date of recording. Upon conclusion of such retention period, all off-air recordings must be erased or destroyed immediately. "Broadcast programs" are television programs transmitted by television stations for reception by the general public without charge.
- B. Off-air recordings may be used once by individual teachers in the course of relevant teaching activities and repeated once, only when instructional reinforcement is necessary in classrooms and similar places devoted to instruction within a single building, cluster or campus, as well as in the homes of students receiving formalized home instruction during the first ten (10) consecutive school days in the forty-five (45) calendar day retention period. "School days" are school session days, not counting weekends, holidays, vacations, examination periods or other scheduled interruptions, within the forty-five (45) calendar day retention period.
- C. 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.
- D. 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.

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- E. After the first ten (10) consecutive school days, off-air recordings may be used up to the end of the forty-five (45) calendar day retention period only for teacher evaluation purposes, (i.e. to determine whether or not to include the broadcast program in the teaching curriculum) and may not be used in the recording institution for student exhibition or any other non-evaluation purpose without authorization.
 - F. 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.
 - G. All copies of off-air recordings must include the copyright notice on the broadcast program as recorded.
- VII. In compliance with the Copyright Law, the Superintendent of Schools or designee shall have posted at all copy machines and places where recordings are checked out, the appropriate notice concerning copyright restrictions.

LEGAL REFS: Guidelines for Classroom Copying in Not-for-Profit Educational Institutions with Respect to Books and Periodicals
 Title A, United States Code
 Guidelines for Educational Uses of Music
 Guidelines for Off-air Recordings of Broadcast Programming for Educational Purposes
 Guidelines on Photocopying under Interlibrary Loan Arrangement Technology, Education, and Copyright Harmonization Act of 2001

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Fair Use Cable/Satellite Broadcasts

There are no Fair Use rights for cable channels or satellite programs. Many cable channels provide educators' guides that list the rights on a program-by-program basis. Permission to tape off-air must be sought.

Fair Use In-School Video Distribution Systems

Permitted

- Distribution of videotapes via closed-circuit network given tapes being distributed must meet the Fair Use factors; videotapes owned by the school and meet instructional objectives; videotapes taped off-air and are being shown during the first ten days from date of airing.

Not Permitted

- Videotapes shown for entertainment.

Fair Use Multimedia

Multimedia was introduced after the latest revision of the copyright law. In 1997, the Conference on Fair Use (CONFU) released the Fair Use Guidelines for Educational Multimedia which was endorsed by the U.S. Copyright Office.

Permitted

- Students: Students may perform and display their own educational multimedia works for a course they are taking. Students may include their multimedia works in their portfolios. Students may keep their work indefinitely.
- Teachers: Teachers may use and display their own education multimedia projects for face-to-face instruction, their own portfolios or academic conferences or In-

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services. Teachers may keep a work for only two years. Teachers may make only two copies of the multimedia works.

Limitations:

- Motion media (film, video, television) – up to 10% or three minutes, whichever is less, of an individual program.
- Text (prose, poetry, drama) – up to 10% or 1000 words, whichever is less, of a novel, story, play, or long poem. Short poems less than 250 words may be used in their entirety. Only three poems by one poet or five poems by different poets from an anthology may be used. For poems longer than 250 words, only three excerpts from one poet or five from works by different poets in an anthology.
- Music, lyrics, and music video – up to 10% but not more than 30 seconds from a single work (or combined from separate extracts of a work).
- Illustrations, cartoons and photographs – no more than five images from a single artist or photographer. No more than 10% or five images from a single collective work.
- Numerical data sets (computer databases or spreadsheets) – up to 10% or 2,500 fields or cells whichever is less.

Other requirements

All multimedia works, by either teacher or student, must include a statement that the work contains copyrighted materials under the Fair Use exemption of U.S. Copyright Law. Permission must be sought for all copyrighted works used in their multimedia projects if they are used for non-educational or commercial purposes.

Fair Use Computer Programs

Permitted

- Owner may make a copy or adaptation of the program for archival (backup) purposes only. Non-profit libraries may lend computer programs provided a warning of copyright is added to the program.

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Not permitted

- Loading single use computer programs onto multiple computers.
- Making multiple copies of a single computer program.

Internet

The Copyright Act and related guidelines do not address the Internet. Until that happens, assume that copyright protection extends to the Internet and all of its online materials including e-mail and newsgroups. Copying materials from the Internet for use on a school Web site requires obtaining permission if the intended use exceeds Fair Use guidelines. Obtain permission by e-mailing the site's Webmaster. Save all e-mail correspondence related to permission as a record. Displaying Web sites for classroom teaching purposes is acceptable. Citation of Internet sources is necessary.

Digital Distance Education

A November 2002, amendment to the existing copyright law, sections 110, 112, expands the scope of educator's rights to perform and display works and to make the copies integral to such performances and displays for digital distance education.

Conditions

The performance or display must be:

1. A regular part of systematic mediated instructional activity
2. Made by, at the direction of, or under the supervision of an instructor
3. Directly related and of material assistance to the teaching content
4. For and technologically limited to students enrolled in the class

Expanded rights include:

1. Transmitting performances of all of a non-dramatic literary or musical work
2. Transmitting reasonable and limited portions of any other performance

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3. Transmitting displays of any work in amounts comparable to typical face-to-face displays

Exclusions:

1. Works primarily produced or marketed for in-class use in the digital distance education market;
2. Works the instructor knows or has reason to believe were not legally made or acquired; and
3. Textbooks, course packets and other materials typically purchased by students individually.

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It is the responsibility of the chief academic officer to disseminate this policy to all employees involved in preparing educational materials and to obtain signed releases. The employee shall complete and submit the **Copyright Release** -- District Regulation EGAD-4-R to Media Services.

Media Services shall be responsible, with approval of the Superintendent of Schools, to:

1. Submit copyright applications on behalf of the District;
2. Execute, on behalf of the District, all licensing and other commercial agreements relating to District-copyrighted materials with approval of the chief financial officer and legal counsel;
3. Submit copies of District copyrighted materials to ERIC for dissemination; and
4. Recommend to the Superintendent of Schools to waive all or a portion of rights to educational materials in appropriate circumstances.
5. Encourage use of the appropriate notice of copyright on all District-copyrighted materials.

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Aurora Public Schools has retained you to prepare or assist in the preparation of the following educational materials:

It is understood and voluntarily agreed that Aurora Public Schools retains all rights relating to the copyright and any other intellectual property rights of these educational materials unless it agrees otherwise in writing.

Employee (signature)

Date