

FARIBAULT PUBLIC SCHOOLS
Faribault, Minnesota

Business Procedures
Series 800

**USE OF AND REPRODUCTION OF COPYRIGHTED
MATERIALS**

Policy No. ~~803-4~~ 625

I. PURPOSE

The purpose of this policy is to provide direction for compliance with federal copyright laws, 17 U.S.C. § 101, et seq.

II. GENERAL STATEMENT OF POLICY

It is policy of the school board ~~Independent School District No. 656 seeks~~ to ensure that copyright laws are adhered to by the School District, its employees, ~~and its - students., and others providing services on the School District's behalf.~~

III. DEFINITIONS

A. Copyright is a type of intellectual property that protects original works of authorship as soon as an author fixes the work in a tangible form of expression.

B. Works of authorship include literary works, musical works, dramatic works, pantomimes and choreographic works, pictorial, graphic, and sculptural works, motion pictures, audiovisual works, sound recordings, and architectural works. Copyrighted Work is the expression of an original creative work and/or the recording, or fixing, of a creative work. Copyright begins with the expression of a created work. Copyright protection does not extend to any idea, procedure, process, system, method of operation, concept, principle, or discovery, regardless of the form in which it is described, explained, illustrated, or embodied in a work of authorship.

Commented [A1]: This section reflects the language in the Copyright Act, 17 U.S.C. § 102

~~B-C.~~ The exclusive rights of copyright owners include the right to: (1) reproduce the copyrighted work in copies or phonorecords; (2) prepare derivative works based upon the copyrighted work; (3) distribute copies or phonorecords of the copyrighted work to the public by sale or other transfer of ownership, or by rental, lease, or lending; (4) in the case of literary, musical, dramatic, and choreographic works, pantomimes, and motion pictures and other audiovisual works, to perform the copyrighted

Commented [A2]: This definition specifies the rights that copyright owners have under the Copyright Act, 17 U.S.C. § 106, which is relevant to application of the fair use doctrine

work publicly; (5) in the case of literary, musical, dramatic, and choreographic works, pantomimes, and pictorial, graphic, or sculptural works, including the individual images of a motion picture or other audiovisual work, to display the copyrighted work publicly; and (6) in the case of sound recordings, to perform the copyrighted work publicly by means of a digital audio transmission.

C.D. Fair Use is the legal doctrine that allows for the use or reproduction of copyrighted works for the purposes of criticism, comment, news reporting, teaching, scholarship, or research.

Legitimately Owned Copy or Legal Copy is a legally obtained or legally archived copyrighted work from which the work can be perceived, reproduced, or otherwise communicated.

D.E. A work of authorship is in the “public domain” if it is no longer under copyright protection or if it failed to meet the requirements for copyright protection. Public-Domain Works are creative works that are no longer protected by intellectual property laws such as copyright. Public domain works can be freely used without permission or restriction. Derivatives, additions, and/or new original elements added to public domain work are not considered public domain.

IV. COPYRIGHT COMPLIANCE

School District staff, students, and others providing services on the School District's behalf shall comply with the Copyright Act of 1976 and all subsequent amendments, 17 U.S.C. § 101, et seq., when using copyrighted works for educational purposes and/or while using School District equipment, technology, computer systems, and/or internet.

School District staff, students, and others providing services on the School District's behalf are prohibited from unlawfully copying or otherwise reproducing copyrighted materials.

IV.V. FAIR USE STANDARDS

Only legal copies of copyrighted materials may be made on school equipment or used in or by the School District, its staff, its students, or others providing services on the Pursuant to the Copyright Act, 17 U.S.C. § 107, the fair use of a copyrighted work for teaching, scholarship, or research purposes is not an infringement of copyright. In determining whether the use made of a work in any particular case is a fair use the factors to be considered shall include:

Commented [A3]: This definition is not part of the Copyright Act, 17 U.S.C. § 101-122, and may result in confusion regarding the requirements of the law

Commented [A4]: The Copyright Act does not define the term “public domain” - the language here reflects the definition provided by the US Copyright Office which has more specific language

Commented [A5]: Given the nuances in regard to what portions of a derivative work have copyright protection, this sentence could lead to confusion and should be removed from the definition of public domain

Commented [A6]: This section is added to clarify the expectations for staff and students.

1. ~~School District's behalf. Copyrighted materials, whether they are print or non-print, shall not be duplicated without written permission from the copyright holder unless such reproduction meets: satisfactorily considers:~~

2.1. The purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes;

3.2. the nature of the copyrighted work;

4.3. the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and

5.4. the effect of the use on the potential market for or value of the copyrighted work.

School District staff members must contact the District Media Specialist or the Director of Educational Technology and Innovation prior to using copyrighted materials for educational purposes to ensure compliance with this policy and the law.

"Fair use" standards;

V.VI. EXCEPTIONS FOR SHOWING PERFORMANCE OR DISPLAY OF COPYRIGHTED WORKS MOVIES OR FILMS IN A NON-PROFIT EDUCATIONAL INSTITUTION THE CLASSROOM

The Educational Exemption is a precise activity which allows the legal use of movies or film in certain types of teaching. The legal use of such media requires adherence to all the following criteria:

The performance or display of a copyrighted work by instructors or pupils in the course of face-to-face teaching activities in a classroom or similar place devoted to instruction is not considered an infringement of copyright, provided that, in the case of the performance or display of a movie or other audiovisual work, a lawfully made copy of the work is used.

1. ~~A teacher or instructor is present;~~
2. ~~the showing takes place in a classroom setting with only the enrolled students attending;~~
3. ~~the movie or film is use as an essential part of the core, required curriculum; and~~
4. ~~the movie or film being used is a legitimately owned copy.~~

Commented [A7]: This section somewhat misstates the law. The Copyright Act allows for the use of copyrighted works in the educational setting if they qualify as "fair use" and under certain circumstances pursuant to 17 U.S.C. § 110.

This section has been revised to reflect the language regarding fair use in the Copyright Act - provisions that fall under 17 U.S.C. § 110 are incorporated in sections below.

Commented [A8]: This language reflects 17 U.S.C. § 110(1), the Copyright Act section which allows teachers to show movies/film/music in the classroom for educational purposes

Commented [A9]: This criteria is only required in the context of online learning, not in-person classroom instruction, and has been moved to the next section to avoid confusion

A. ~~A specific exception for teaching in a non-profit educational institution; or~~

VI. ~~REPRODUCTION OF COPYRIGHTED MATERIALS~~

~~Reproduction of copyrighted materials in a non-profit educational setting must meet at least one of the following criteria:~~

- ~~1. A work is in the public domain;~~
- ~~2. Fair Use for teaching applies;~~
- ~~3. reproduction is done by libraries or archives for publicly available, non-commercial preservation or distribution of the work for research; or~~
- ~~4. written consent is obtained from the copyright holder.~~

B. ~~A specific exception for reproduction by libraries.~~

VII. PERFORMANCE OR DISPLAY OF COPYRIGHTED WORKS IN DISTANCE LEARNING

In the context of distance learning, the digital transmission of the performance of a nondramatic literary or musical work or reasonable and limited portions of any other work, or display of a work in an amount comparable to that which is typically displayed in the course of a live classroom session is not considered an infringement of copyright if all of the following conditions are met:

- a. the performance or display is made by, at the direction of, or under the actual supervision of an instructor as an integral part of a class session offered as a regular part of the systematic mediated instructional activities of a governmental body or an accredited nonprofit educational institution;
- b. the performance or display is directly related and of material assistance to the teaching content of the transmission;
- c. the transmission is made solely for, and, to the extent technologically feasible, the reception of such transmission is limited to—
 - i. students officially enrolled in the course for which the transmission is made; or
 - ii. officers or employees of the School District as a part of their official duties or employment; and
- d. the transmitting School District—
 - i. institutes policies regarding copyright, provides informational materials

Commented [A10]: This section does not fully reflect the requirements of the Copyright Act and could result in liability to the District if staff do not understand the nuances of fair use

Commented [A11]: This section reflects the requirements of the TEACH Act, 17 U.S.C. § 110(2). These requirements only apply when copyrighted material (primarily movies, music, or other audiovisual works) are transmitted as part of distance learning.

to faculty, students, and relevant staff members that accurately describe, and promote compliance with, the laws of the United States relating to copyright, and provides notice to students that materials used in connection with the course may be subject to copyright protection; and

ii. in the case of digital transmissions—

- applies technological measures that reasonably prevent—
 - retention of the work in accessible form by recipients of the transmission from the transmitting body or institution for longer than the class session; and
 - unauthorized further dissemination of the work in accessible form by such recipients to others; and
- does not engage in conduct that could reasonably be expected to interfere with technological measures used by copyright owners to prevent such retention or unauthorized further dissemination;

The exception to copyright infringement in this section does not apply with respect to a work produced or marketed primarily for performance or display in distance learning as part of the integral part of the class experience, controlled by or under the actual supervision of the instructor and analogous to the type of performance or display that would take place in a live classroom setting, or a performance or display that is given by means of an unlawfully made copy.

School District staff members must contact the District Media Specialist or the Director of Educational Technology and Innovation to ensure distance learning curriculum complies with this policy and the law.

~~VII.~~VIII. SCOPE AND LIMITATION ON LIABILITY

~~All District 656 School District employees, students, and others providing services on the School District's behalf are responsible for complying with copyright laws. The administrator of each building is responsible for establishing practices which support this policy for the building which he/she is responsible.~~ Any employee or student with a question regarding whether or not ~~he/she may make a reproduction~~ should ~~contact~~ the use or reproduction of a copyrighted work is an infringement of copyright or should be considered fair use must ~~should~~ contact:

~~District Media Services staff.~~

District Media Specialist or
Director of Educational Technology and Innovation

~~Independent School District No. 656~~ The School District does not sanction
~~illegal prohibits unlawful use and/or duplication reproduction of copyrighted works~~
or any other violation of copyright laws. Employees ~~and/or others providing~~
~~services on the School District's behalf~~ who knowingly and/or willfully disregard ~~the~~
~~District's copyright policy this policy~~ or ~~who otherwise~~ violate copyright laws are in
violation of School District policy and assume all liability for such violations,
including all legal costs and judgments.

~~The School District's insurance protection will not extend to employees or others~~
~~providing services on the School District's behalf who knowingly and/or willfully~~
~~violate this policy and/or copyright laws.~~ Knowing and/or willful violations of this
policy may also subject the employee to disciplinary action by the District.

July 29, 1991
Date of Adoption

October 24, 2022
Date of Review and Approval

Legal References:

17 U.S.C. § 101 (2010)
17 U.S.C. § 102 (1990)
17 U.S.C. § 106 (2002)
17 U.S.C. § 107 (1992)
17 U.S.C. § 108 (2005)
17 U.S.C. § 110 (2005)