

The North Lake School District Board of Education (“District”) is committed to achieving full compliance among staff members and students in the District with respect to the federal laws governing the reproduction of copyrighted materials. The administrative policy set forth below was adopted by the Board to provide an overview of, and guidelines for complying with, the federal Copyright Act of 1976 and applicable regulations.

This policy covers all copyrighted materials used in the District schools. All District staff members are expected to familiarize themselves with this policy and to abide by its terms.

The Copyright Act of 1976, which is Title 17 of the United States Code, is sometimes referred to below as the “Act” or the “Copyright Law.”

DISTRICT COPYRIGHT POLICY

A. Specific Guidelines

1. In-service Training. The District shall provide all staff members with inservice training, information and materials regarding the copyright law.
2. Acquisition of Rights. The District shall assist staff members in acquiring rights to copyrighted materials.
3. Copyright Notices and Warnings. Appropriate copyright notices and warnings shall be placed on all copying equipment.
4. Unauthorized Duplication. Duplicating copyrighted materials without permission from the copyright holder is strictly prohibited, except under the provisions of “fair use.”
5. Prohibited Use of Equipment. Using District equipment to violate the copyright law is strictly prohibited.
6. No Substitution for Purchase. Except as otherwise expressly permitted under this policy, copying copyrighted material to substitute for the purchase of that material shall be prohibited.
7. Readings and Performances. Distributing, transmitting or undertaking a reading or performance of a copyrighted work without the copyright holder’s permission shall be prohibited, except under the provisions of “fair use”.
8. Prohibition Against Ordering Violations. No employee shall order any violation of the copyright law.
9. Compliance with the Act. These guidelines and the following overview of the federal copyright law are not comprehensive, and a staff member’s familiarity with them does not absolve the staff member from complying with all aspects of the Act.

OVERVIEW OF FEDERAL COPYRIGHT LAW

A. Copyright Protection

1. Rights of Copyright Holders. Section 106 of the Act grants copyright holders (that is, authors and other creators and publishers) the exclusive right to do, or to allow others to do, each of the following acts with respect to their copyrighted works:
 - a. Reproduce all or any part of the works;
 - b. Prepare new or derivative versions;
 - c. Sell, rent, lease, lend or otherwise distribute copies; and
 - d. Perform and display the works publicly.
 - i. Copyright infringement occurs when someone violates any of these exclusive rights.
 - ii. These rights are not unlimited in scope, however; one major limitation is the doctrine of “fair use,” which is described below.
2. Commencement of Copyright Protection. The Act provides that copyright protection begins the moment the work is created and fixed in some form; that is, it arises from the mere creation of the work and its fixation in some tangible medium.
 - a. Publication is not required. Copyright protection covers both published and unpublished works.
 - b. Registration is not required. Copyright protection covers works that have not been registered with the U. S. Register of Copyrights (the “Copyright Office”) (which is part of the Library of Congress). Registration is required, however, in order to file a federal copyright infringement action and to recover statutory damages or attorneys’ fees. Once the work is registered, though, the copyright owner can institute a federal lawsuit for infringements, which occurred before registration.
 - c. Copyright notice is not required since a work fixed in a tangible medium is now protected by the Copyright Law upon creation. Copyright notice was required before the enactment of the Copyright Act of 1976.

B. Works Protected by Copyright

1. Statutory Definition of Protected Works. Copyright protects “original works of authorship” which are “fixed in a tangible medium of expression.”
2. Categories of Protected Works. Copyrightable works include the following broad categories:
 - a. Literary works, including computer software and databases, and reference works such as dictionaries and encyclopedias;
 - b. Musical, choreographic and dramatic works;
 - c. Pictorial, graphic and sculptural works, including maps;
 - d. Motion pictures and other audiovisual works, including videotapes; and
 - e. Sound recordings.

3. Unprotected Works. Works that do not qualify for protection under the Copyright Law are in the “public domain” and may be freely copied.

C. Duration of Copyright Protection

1. Works Created After January 1, 1978. For works created on or after January 1, 1978, the copyright ordinarily lasts for the life of the author plus 50 years. For works made for hire (works, for example, made by an employee for an employer), and for anonymous and pseudonymous works, the duration of copyright is 75 years from publication or 100 years from creation, whichever is shorter.
2. Works Published or Registered Before 1978. Under the law in effect before 1978, copyright protection for published or registered works was secured either on the date of publication or, if the work was registered in unpublished form, on the date of registration. The copyright term was 28 years, and was renewable for one subsequent 28 year period. The current copyright law has extended the renewal term to 47 years for copyrights that existed on January 1, 1978, thus extending their term to 75 years.
3. Other Works. Sections 302 through 304 of the Act govern the duration of copyright protection for anonymous and pseudonymous works, and for works that were created, but were not published or registered, before 1978. Since these Sections are complex, a staff member intending to use or copy a work whose duration of copyright is not set forth in Sections C.1 or C.2., above, should immediately contact the District Copyright Coordinator for guidance in complying with the Copyright Law.

D. Copyrights in Government Works

1. U.S. Government. Generally, the United States cannot copyright works created by the federal government. The Act defines a “work of the United States Government” as one that is prepared by an officer or employee of the U.S. government as part of that person’s official duty. Such a work is considered to be in the public domain and no copyright protection is available to the federal government or any person who subsequently copies it. However, the U.S. government may receive and hold copyrights that are transferred to it by assignment, bequest, gift or otherwise. The U.S. Postal Service also may use the Copyright Law to prevent copying of postage stamp designs for private or commercial non-postal uses. Likewise, the Secretary of Commerce may copyright standard reference data written by the United States.
2. State, Local and Foreign Governments. Generally, works prepared by officers or employees of any government (except the U.S. government), including state, local and foreign governments, are subject to copyright protection. In addition, the Copyright Law specifies that works first published by the United Nations or any of its specialized agencies are subject to copyright protection.

E. “Fair Use” Limitation on Copyright Protection

1. Application of Fair Use. Many provisions of the Act apply to the educational uses of copyrighted materials, but the most generally applicable are those provisions that establish the doctrine of “fair use,” set forth under Section 107 of the Act.
2. Fair Use Criteria. The doctrine of fair use allows the limited use of a copyrighted work, including its reproduction, without the copyright owner’s permission for such purposes as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship and research. Section 107 establishes four basic factors, which are considered together when determining whether or not a use constitutes a copyright infringement:
 - a. The purpose and character of the use (e.g., Is the copying done for commercial or educational purposes?);
 - b. The nature of the copyrighted work (e.g., Was the original work intended to be a “consumable” workbook, for example?);
 - c. The amount and substantiality of the portion used (e.g., How much is being copied? How important is the copied part to the entire work? How many copies are being made?);
 - d. The effect of the use upon the potential market for or value of the copyrighted work (e.g., Will the copyright owner suffer financial loss?);

No one factor is determinative of a person’s right to use a copyrighted work without permission. Educational use alone is not sufficient to make a use a fair use. The foregoing fair use criteria should be applied to each intended use before copying any copyrighted materials.

FAIR USES OF COPYRIGHTED MATERIALS

A. Literary Works and Printed Materials

1. Single Copy. A staff member may make, or have made at his or her request, a single copy of the following works for research or teaching purposes, without the copyright holder’s permission:
 - a. A chapter from a book;
 - b. An article from a periodical or newspaper;
 - c. A short story, short essay or short poem; and
 - d. A chart, graph, diagram, drawing, cartoon or picture from a book, periodical or newspaper.

2. **Multiple Copies.** A staff member may make, or have made at his or her request, multiple copies of a copyrighted work without the copyright holder's permission under the following circumstances:
 - a. The opportunity to use the copyrighted work for maximum teaching effectiveness does not allow enough time to receive a reply to a request for permission before such use.

and
 - b. The following limits are observed when copying the types of works below:
 - i. A complete article story or essay must contain fewer than approximately 2,500 words.
 - ii. An excerpted prose work must be no longer than approximately 1,000 words or 10% of the entire work, whichever is shorter.
 - iii. No more than one illustration, chart, graph, diagram, drawing, cartoon or picture is copied per book or per periodical.
 - iv. A poem, or an excerpt from a poem, must be no longer than 250 words and must not be printed on more than two pages.

and
 - c. The copying is for only one course in the school in which the copies are made.

and
 - d. The original copyright notice must appear on all copies of the work.
3. **Prohibitions Regarding Multiple Copying.** Making multiple copies without the copyright holder's permission for use in a scholastic setting is subject to the following prohibitions:
 - a. The copying may not be used to create, replace or substitute for anthologies, compilations or collective works.
 - b. Copies may not be made of "consumable" works, including workbooks, exercises, standardized tests, test booklets, answer sheets and the like.
 - c. The copying may not substitute for the purchase of books, publisher's reprints or periodicals.
 - d. The copying may not be directed by a higher authority, such as a principal or head of a department.
 - e. The same staff member cannot copy, or have copied for him or her, the same item without permission from term to term.

- f. No charge shall be made to the student beyond the actual cost of the photocopying.
- g. During one class term, no more than one poem, article, story or essay or two excerpts may be copied from works by the same author, and no more than three works or excerpts may be copied from the same collective work or periodical volume.
- h. No more than nine instances of multiple copying of copyrighted works may occur for one course (this prohibition and the one immediately preceding it do not apply to current news periodicals, newspapers, and current news sections of other periodicals).

B. Audiovisual Works

- 1. Permissible Copying. Copies of any of the following audiovisual works 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; and
 - c. Copies made under “permission to copy” arrangements.
- 2. Permissible Broadcast Copying. The following broadcast 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 the specific rights limitations);
 - b. Broadcast programs to be used within ten school days of the original broadcast; and
 - c. Programs with specified “permission to copy” arrangements.
- 3. Prohibited Broadcast Copying. Notwithstanding any of the permissible uses above, the following shall be prohibited
 - a. Copying from premium channels (HBO, The Disney Channel, Showtime, Cinemax, and the like) or from non-broadcast or cable channels (ESPN, MTV, Nickelodeon, Arts and Entertainment, and the like);
 - b. Duplicating copyrighted video recordings;
 - c. Copying from one format to another (16mm to videotape, Beta to VHS, disc to videotape, etc.); and
 - d. Copying off-air programs for the purpose of entertainment or reward. 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.
- 4. Permissible Viewing. The viewing of video recordings with “Public Performance Rights” is not restricted.

C. Computer Software

1. Permissible Copying. The following copies of computer software may be made by or at the individual request of a staff member:
 - a. Copies essential to utilizing the program in conjunction with a machine;
 - b. Copies necessary for archival purposes;
 - c. Copies of “in house” school productions; and
 - d. Copies of uncopyrighted works or works in the public domain for classroom use.

2. Prohibited Uses. No staff member may do any of the following with respect to copyrighted software:
 - a. Copy copyrighted programs on District equipment without the copyright holder’s permission;
 - b. Use illegal copies of copyrighted programs on District equipment;
 - c. Purchase programs designed primarily as “break and entry” tools with District, state or federal funds;
 - d. Install single copies of copyrighted programs into more than one machine without the copyright holder’s permission; or
 - e. Use “archival” copies of software as additional copies.

D. Musical Works

1. Permissible Uses. A staff member, or someone at the staff member’s request, may use musical works in the following ways without the copyright holder’s permission:
 - a. Emergency copying to replace purchased copies not available “for an imminent performance, “provided purchased replacement copies are substituted “in due course”;
 - b. “For academic purposes” other than performance, single or multiple copies, not to exceed one copy per pupil, may be made of excerpts of no more than 10% of the whole work, provided that the excerpts do not constitute a “performable unit” such as a movement or aria;
 - c. Purchased printed copies may be edited or simplified, provided that the “fundamental character” of the work is not distorted or any lyrics altered or added;
 - d. A single copy of recordings of student performances may be made for evaluation or rehearsal purposes and may be retained by the educational institution or individual teacher; and

- e. A single copy of a sound recording 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.
2. Prohibited Uses. The following prohibitions apply to the use of musical works without the copyright holder's permission:
- a. The copies may not be used as substitutes for anthologies, compilations, or collective works;
 - b. "Consumable" materials, such as exercises and tests, may not be copied;
 - c. No other copying is permitted for the purpose of performance, except "for an imminent performance," as described in Section D.1. above;
 - d. No other copying is permitted for the purpose of substituting for the purchase of music, except "for an imminent performance" and "for academic purposes", as described in Section D.1. above;
 - e. No copying is permitted without including the copyright notice that appears on the printed copy.

LIBRARY USES OF COPYRIGHTED MATERIALS

A. Reproduction and Distribution by Libraries

1. Sources of Authority. The reproduction or distribution of a copy or phonorecord by a library is not an infringement of copyright if done in accordance with the following provisions of the Act:
- a. Fair use provisions of Section 107; or
 - b. Library use provisions of Section 108.
2. Conditions. Under Section 108, a library or any of its employees acting within the scope of their employment may reproduce copies of print works and phonorecords under specific circumstances:
- a. No more than one copy may be made at a time ("systematic" reproduction is prohibited, such as that done to substitute for subscribing to or purchasing a work; however, "isolated and unrelated" copies "on separate occasions" are allowed);
 - b. The copying must be without any purpose or commercial advantage;
 - c. All copies must include a notice of copyright.

3. Permitted Purposes. Section 108 permits reproduction and distribution of copyrighted works for the following purposes:
 - a. Preserving an unpublished work;
 - b. Replacing a damaged, lost or stolen published work;
 - c. Individual private study, scholarship or research by library patrons;
and
 - d. Interlibrary loans (requests for copies must conform to the Guidelines of the National Commission on New Technological Uses of Copyrighted Works).

4. Limitations on the Application of Section 108. The rights of reproduction and distribution provided to libraries under Section 108 do not apply to the following works:
 - a. Musical, pictorial, graphic or sculptural works; or
 - b. Motion pictures or other audiovisual works other than “audiovisual works dealing with the news.”

The foregoing limitations notwithstanding, libraries may reproduce any copyrighted work if it is necessary to preserve an unpublished work or to replace a published work.

B. Required Copyright Notices

1. At Places Where Copy Orders are Accepted. Libraries must prominently display the following warning of copyright at the place where orders for copies are accepted. Verbatim adherence is required:

**NOTICE
WARNING CONCERNING
COPYRIGHT REGISTRATIONS**

The Copyright Law of the United States (Title 17, United States Code) governs the making of photocopies or other reproductions of copyrighted materials.

Under certain conditions specified in the law, libraries and archives are authorized to furnish a photocopy or other reproduction. One of these specified conditions is that the photocopy or reproduction is not to be “used for any propose other than private study, scholarship, or research.” If a user makes a request for, or later uses, a photocopy or reproduction for purposes in excess of “fair use,” that user may be liable for copyright infringement.

This institution reserves the right to refuse to accept a copying order if, in its judgment, fulfillment of the order would involve violation of copyright law.

1. On Reproducing Equipment. Libraries must display on all of their reproducing equipment available for unsupervised use “a notice that the making of a copy may be subject to the copyright law.” The Act requires no specific language for this notice.

COPYRIGHT INFRINGEMENT BY DISTRICT EMPLOYEES

A. Consequences of Infringement

1. No Indemnification. Under Section 895.46 of the Wisconsin Statutes, District employees who violate federal copyright laws may be deemed to have acted outside the scope of their employment and may not be eligible for any indemnification or legal counsel otherwise provided by the District.
2. Penalties. District employees who infringe copyrights may be personally liable for copyright infringement. Under Sections 502 through 506 of the Act, the penalties for infringing a copyright include becoming subject to an injunction to stop the infringement, payment of actual damages suffered by the copyright owner, disgorgement of any profits made by the infringer resulting from the infringement, an assessment of statutory damages, payment of costs and attorneys' fees, impoundment of copies during the pendency of an infringement suit, and destruction of copies as part of the court's final judgment.

Adopted: 1-9-85
Revised: 2-16-05