

**Darien Public Schools
Darien, Connecticut**

POLICY

**Series 6600
Instructional Resources**

Policy 6620

Use of Copyrighted Materials

The Darien Board of Education recognizes that federal law imposes certain restrictions on the duplication of copyrighted materials without authorization of the holder of the copyright. Copyrighted materials may include, but are not limited to, books, periodicals, sheet music, audiotapes, videotapes, DVDs, and computer software.

Accordingly, the Board does not permit the duplication of copyrighted materials, except in conformance with applicable federal law, including but not limited to the "fair use" doctrine.

The Board directs the Superintendent to develop and maintain regulations to direct staff members with respect to appropriate use and reproduction of copyrighted materials.

While the district encourages its staff to enrich the learning programs by making proper use of supplementary materials, it is the responsibility of the district staff to abide by the district's copying procedures and obey the requirements of the law. In no circumstances shall the district consider it necessary for district staff to violate copyright requirements in order to perform their duties properly. The district is not responsible for any violations of the copyright law by its staff except in accordance with the provisions of Conn. Gen. Stat. § 10-235.

Any staff member who is uncertain as to whether reproducing or using copyrighted material is permissible under the law should contact the Superintendent or the person designated as the copyright compliance officer. The latter will also assist staff in obtaining proper authorization to copy or use protected material when such authorization is required.

Failure to comply with the district's policy and regulations regarding use of copying devices/copyright procedures may result in disciplinary action.

This policy and the regulations that accompany it are just guidelines, and the Darien Public Schools cannot guarantee that adherence to these guidelines will eliminate all possibility of finding a copyright violation.

Legal References: The Copyright Act of 1976, as amended, 17 U.S.C. § 101 et seq.

APPROVED: November 10, 2009

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Administrative Regulations

Use of Copyrighted Materials

These regulations, promulgated pursuant to Board Policy **6620** are designed to assist school staff in appropriately using copying devices and copyrighted materials in a manner consistent with federal copyright law.

While the district encourages its staff to enrich the learning programs by making proper use of supplementary materials, it is the responsibility of the district staff to abide by the district's copying procedures and obey the requirements of the law. In no circumstances shall the district consider it necessary for district staff to violate copyright requirements in order to perform their duties properly. The district is not responsible for any violations of the copyright law by its staff.

Any staff member who is uncertain as to whether reproducing or using copyrighted material is permissible under the law should contact the Superintendent [or other appropriate administrator designated as the copyright compliance officer]. Such person will also assist staff in obtaining proper authorization to copy or use protected material when such authorization is required.

Failure to comply with the district's policy and regulation regarding use of copying devices may result in disciplinary action.

The following guidelines represent the current understanding of copyright law and the fair use doctrine. However, the Darien Public Schools cannot guarantee that adherence to these guidelines will eliminate all possibility of a finding of a copyright violation. Each use of a copyrighted material must be reviewed on an individual basis, particularly if such use falls outside the scope of the following guidelines. The Darien Public Schools is not responsible for copyright violations by its employees except in accordance with the provisions of Conn. Gen. Stat. § 10-235.

NOTE: These regulations cover only in-classroom uses of copyrighted works and do not apply to copying outside of the walls of the classroom. Staff members should note that posting a copyrighted work on the Internet does not constitute an “in-classroom” use. Staff members utilizing class websites and/or other Internet resources should contact the appropriate administrator, designated above, with any questions.

FAIR USE GENERALLY

The fair use of a copyrighted work for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research, 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:

- A. the purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes;
- B. the nature of the copyrighted work;
- C. the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and
- D. the effect of the use upon the potential market for or value of the copyrighted work.

The fact that a work is unpublished shall not itself bar a finding of fair use if such finding is made upon consideration of all above factors.

BOOKS AND PERIODICALS

1. **Single Copying for Teachers:** A single copy may be made of any of the following by or for a teacher at his/her scholarly research or use in teaching or preparation to teach a class:
 - a. A chapter from a book.
 - b. An article from a periodical or newspaper.
 - c. A short story, short essay or short poem, whether or not from a collective work.
 - d. A chart, graph, diagram, drawing, cartoon or picture from a book, periodical or newspaper.
2. **Multiple Copies for Classroom Use:** Multiple copies (not to exceed in any event more than one (1) copy per student in a course) may be made by or for the teacher for classroom use or discussion, provided that

- a. The copying meets the test of brevity and spontaneity as defined below.
- b. The copying meets the cumulative effect test as defined below.
- c. Each copy includes a notice of copyright.

3. **Definitions**

a. Brevity

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

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

(Each of the numerical limits stated in a(1) and (2) above may be expanded to permit completion of an unfinished line of a poem or of an unfinished prose paragraph.)

(3) Illustration: One (1) chart, graph, diagram, cartoon or picture per book or per periodical issue.

(4) "Special" Works: Certain works in poetry, prose or in "poetic prose" which often combine language with illustrations and which are intended sometimes for children and at other times for more general audience and fall short of two thousand five hundred (2,500) words in their entirety. Subparagraph (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 work and containing not more than ten percent (10%) of the words found in the text thereof may be reproduced.

b. Spontaneity

(1) The copying is at the instance and inspiration of the individual teacher, and

(2) The inspiration and decision to use the work and the moment of its use for maximum teaching effectiveness are so close in time that it would be unreasonable to expect a timely reply to a request for permission.

c. Cumulative Effect

- (1) The copying of the material is for only one (1) course in the school in which copies are made.
- (2) Not more than one (1) short poem, article, story, essay or two (2) excerpts may be copied from the same author, nor more than three (3) from the same collective work or periodical volume during one (1) class term.
- (3) There shall not be more than nine (9) instances of such multiple copying for one (1) course during one (1) class term.

(The limitation stated in (2) and (3) above shall be not apply to current news periodicals and newspapers and current news sections of other periodicals.)

4. **Prohibitions:**

Notwithstanding any of the foregoing, the following shall be prohibited:

- a. Copying shall not be used to create or to replace or substitute for anthologies, compilations, or collective works. Such replacement or substitution may occur whether copies of various works or excerpts there from are accumulated or reproduced and used separately.
- b. There shall be no copying of or from works intended to be "consumable" in the course of study or of teaching. "Consumable" works include: workbooks, exercises, standardized tests, test booklets, answer sheets, and like consumable material.
- c. Copying shall not:
 - (i) substitute for the purchase of books, publishers' reprints or periodicals;
 - (ii) be directed by a higher authority;
 - (iii) be repeated with respect to the same item by the same teacher from term to term.
- d. No charge shall be made to the student beyond the actual cost of the photocopying.

MUSIC

1. Emergency copying to replace purchased copies which for any reason are not available for an imminent performance is permissible provided purchased replacement copies shall be substituted in due course.
2. 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 or aria, but in no case more than ten (10%) percent of the whole work. The number of copies shall not exceed one copy per pupil.

3. 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.

4. 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 an individual 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 school or the individual teacher for the purpose of constructing aural exercises or examination questions and may be retained by the educational institution or individual teacher.

6. Copying cannot be used to create, replace or substitute for anthologies, compilations or collective works. Copying of or from consumable works in the course of study or teaching (such as workbooks, exercises, standardized tests and answer sheets) is prohibited. Copying for the purpose of performance is prohibited, except in the case of an emergency as set forth in paragraph 1 above, and copying for the purpose of substituting for the purchase of music is prohibited, except as set forth in the first and second paragraphs above. All copies must include the copyright notice appearing on the printed copy.

PERFORMANCE OF COPYRIGHTED WORKS

1. Performance or display by teachers or students of a legally obtained copyrighted work (such as reading of a poem, showing a DVD or playing a CD) is permitted without the authorization of the copyright owner if used as part of a teaching activity in a classroom or instructional setting. The purpose shall be instructional rather than for entertainment.

2. Performances of non dramatic literary or musical works which are copyrighted are permitted without the authorization of the copyright owner, provided that:

A. The performance is not for commercial purpose;

B. None of the performers, promoters or organizers are compensated; and

C. (1) There is no direct or indirect admission charge; or (2) Admission fees are used for educational or charitable purposes only; provided that the copyright owner has not objected to the performance.

All other dramatic, non dramatic or musical performances require permission from the copyrighted owner.

OFF-AIR RECORDINGS

Television programs are protected by copyright law from unauthorized duplication and distribution. The "Fair Use" doctrine allows educators the right to use copyrighted materials under specific guidelines:

1. **Broadcast Network Programming:** (programs transmitted by TV stations for reception by the general public without charge) Teachers may record broadcast programs off-air simultaneously with the broadcast transmission. Such recordings may be used once in the course of relevant teaching activities within the first ten (10) days of the program's first broadcast. The recording may be used one additional time within the initial ten-day period only when instructional reinforcement is necessary, and only in classrooms and similar places within a single building or in the homes of students receiving formalized instruction.

a. Off-air recordings may be kept for up to forty-five (45) school days after which time all off-air recordings must be destroyed or erased. "School days" are days when school is in session. After the first ten (10) days, off-air recordings may be used to the end of the forty-five (45) day retention period only for teacher evaluation purposes (i.e. to determine whether to use the recording in the curriculum).

b. Off-air recordings may be made only upon specific request by an individual teacher and may not be regularly recorded in anticipation of a request. No broadcast program may be recorded off-air more than once at the request of an individual teacher, regardless of the number of times the program may be broadcast.

c. A limited number of copies of each off-air recording may be made and only when needed for legitimate teacher needs. Any additional copy must meet the same requirements as the original recording.

d. Off-air recordings do not need to be used in their entirety, but the program may not be altered from its original content. Recordings may not be electronically or physically combined or merged.

e. All programs recorded off-air must include the copyright notice as recorded.

2. **Cable Network Programming:** (programs transmitted through a cable provider with specific copyright clearances) Teachers may videotape and use cable programs for instructional purposes if individual copyright clearances are followed and the programs are not altered. Sections of a program may be shown, but the program may not be altered from its original content. Programs may be used an unlimited number of times during the copyright clearance period. A limited number of copies may be produced to meet the needs of teachers as long as copyright guidelines are adhered to. Each copy is subject to all copyright provisions that apply to the original. Under no circumstances should an educator make any off-air recording of cable network programming without an individual copyright clearance.

FAIR USE OF COPYRIGHTED MATERIALS IN EDUCATIONAL MULTIMEDIA PROJECTS

1. **Definition:**

An educational multimedia project is a project which incorporates students' or educators' original material, such as course notes or commentary, together with various copyrighted media formats including but not limited to, motion media, music, text, graphics, illustrations, photographs and digital software which are combined into an integrated presentation.

2. **Preparation of educational multimedia projects using portions of copyrighted works:**

- a. **By students:** Students may incorporate portions of lawfully acquired copyrighted works when producing their own educational multimedia projects for a specific course.
- b. **By educators for curriculum based instruction:** Educators may incorporate portions of lawfully acquired copyrighted works when producing their own educational multimedia programs for their own teaching tools in support of curriculum based instructional activities at educational institutions.

3. **Permitted uses of educational multimedia projects using portions of copyrighted works:**

- a. **By students:** Students may perform and display their own educational multimedia projects for educational uses in the course for which they were created and may use them in their own portfolios as examples of their academic work for later personal uses such as job and graduate school interviews.
- b. **By educators for curriculum based instruction:** Educators may perform and display their own educational multimedia projects to students in the following situations:
 - (i) face-to-face instruction,
 - (ii) assigned to students for directed self-study,
 - (iii) for remote instruction to students enrolled in curriculum based courses and located at remote sites, provided over the educational institution's secure electronic network in real-time, or for after class review or directed self-study, provided there are technological limitations on access to the network and educational multimedia project (such as password or PIN) and provided further that the technology prevents the making of copies of copyrighted material. If the educational institution's network or technology used to access the educational multimedia project cannot prevent duplication of copyrighted material, students or

educators may use the multimedia educational projects over an otherwise secure network for a period of only fifteen days after its initial real-time remote use in the course of instruction or fifteen days after its assignment for directed self-study. After that period, one of the two use copies of the educational multimedia project may be placed on reserve in a learning resource center, library or similar facility for on-site use by students enrolled in the course. Students shall be advised that they are not permitted to make their own copies of the multimedia project.

c. By educators for peer conferences: Educators may perform and display their own educational multimedia projects in presentations to peers, for example, at workshops and conferences.

d. By educators for professional portfolio: Educators may retain educational multimedia projects for later personal uses such as tenure review or job interviews.

4. Limitations on preparation and use of educational multimedia projects using portions of copyrighted works:

a. Educators may save and use multimedia projects for up to two years after the first instructional use with a class. Use beyond that time period, even for educational purposes, requires permission for each copyrighted portion incorporated into the project.

b. Portion limitations:

Portion limitations mean the amount of copyrighted work that can be reasonably used in educational multimedia projects regardless of the original medium from which the copyrighted works are taken. "In the aggregate" means the total amount of copyrighted materials from a single copyrighted work that is permitted to be used in an educational multimedia project without permission. These limits apply cumulatively to each educator's or each student's multimedia project(s) for the same academic semester, cycle or term.

(i) "Motion media" may be used in a multimedia project for a maximum of three minutes or 10 percent (whichever is smaller).

(ii) "Text material" may be used in a multimedia project up to 10% or 1000 words, whichever is less, in the aggregate of a copyrighted work consisting of text material. An entire poem of less than 250 words may be used, but no more than three poems by any one poet, or five poems by different poets from any anthology may be used. For poems of greater length, 250 words may be used but no more than three excerpts by a poet, or five excerpts by different poets from a single anthology may be used.

(iii) "Music, lyrics, and music video" may be used in a multimedia project up to 10%, but in no event more than 30 seconds. Any alterations to a musical work shall not change the basic melody or fundamental character of the work.

(iv) "Illustrations and photographs" may be used in a multimedia project as long as no more than five images by an artist or photographer are reproduced or incorporated. When using illustrations and photographs from a published collective work, not more than 10% or 15 images, whichever is less, may be reproduced or incorporated into the project.

(v) "Numerical data sets" may be used in a multimedia project up to 10% or 2500 fields or cell entries, whichever is less, from a copyrighted database or data table. A field entry is defined as a specific items of information, such as a name or Social Security number, in a record of a database file. A cell entry is defined as the intersection where a row and a column meet on a spreadsheet.

c. Number of copies:

(i) Not more than two use copies of an educational multimedia project may be made.

(ii) An additional copy may be made for preservation purposes but may only be used or copied to replace a use copy that has been lost, stolen, or damaged.

(iii) Each principal creator of an educational multimedia project may retain one copy for the personal uses described above.

d. Attribution and Acknowledgment:

(i) Educators and students are reminded to credit the sources and display the copyright notice and copyright ownership information if this is shown in the original source, for all works incorporated as part of educational multimedia projects. Crediting the source must adequately identify the source of the work, giving a full bibliographic description where available (including author, title, publisher, place and date of publication). This attribution may be combined and shown in a separate section of the educational multimedia project. Note: if the project is being viewed remotely, as described in section 3(b)(iii) above, the attribution data must appear on the screen when the image is viewed, unless the appearance of same on the screen would be mutually exclusive with an instructional objective (i.e. during examinations when source credits would be relevant to examination questions).

(ii) Educators and students are reminded that they must include on the opening screen of their multimedia project and any accompanying print material a notice that certain materials are included under the fair use exemption of the U.S. Copyright law and are restricted from further use.

COMPUTER SOFTWARE AND CD ROM PRODUCTS

The Darien Public Schools complies with the copyright laws and any usage agreements that are applicable to the acquisition of software programs.

1. Unauthorized reproduction or distribution of copyrighted software is prohibited.
2. Educators may not make copies of software or distribute it for use by their students in school or at home.
3. One back up copy of licensed software may be made for archival/replacement purposes only; however, this copy must comply with the license agreement.
4. To prevent misuse of licensed software programs, teachers should take the following precautions:
 - a. Avoid loading a CD or diskette into multiple computers without authorization;
 - b. Avoid installation of outside software on school computers or computer systems;
 - c. Do not copy or distribute copies of software from an unauthorized source; and
 - d. Ensure that any use of the school computer or computer network complies with the district's administrative regulations for acceptable use of computers, including internet and emails.

The guidelines set forth above represent the current understanding of copyright law and the fair use doctrine. However, the Darien Public Schools cannot guarantee that adherence to these guidelines will eliminate all possibility of a finding of a copyright violation. The Darien Public Schools is not responsible for copyright violations by its employees except in accordance with the provisions of Conn. Gen. Stat. § 10-235.