

Copyright Guidelines

It is the intent of the *Millard Public Schools* to adhere to the provisions of US Copyright Law (Title 17). The employees of Millard Public Schools are prohibited from copying materials not specifically allowed by fair use, copyright law, licenses or contractual agreements or permission. Millard Public Schools disapproves of unauthorized duplication in any form. Employees who willfully disregard the copyright policy are in violation and do so at their own risk and assume all liability. Every attempt will be made to assist employees who need information so that they can perform their duties within the intent of the law. Workshops on copyright law will be made available to staff as needed.

Specifically:

1. Unlawful copies of copyrighted materials may not be *produced* on district owned equipment.
2. Unlawful copies of copyrighted materials may not be *used* with district-owned equipment, within district-owned facilities or at district-sponsored events.
3. The legal protection of the district will not be extended to employees who unlawfully copy and use copyrighted materials.
4. Employees who make copies and/or use copyrighted materials in their jobs are expected to be familiar with published provisions regarding fair use.
5. Employees who use copyrighted materials that do not fall within fair use guidelines must be able to substantiate that the materials meet one of the following tests:
 - materials have been purchased from an authorized vendor and a record of the purchase exists
 - materials are covered by a licensing agreement between the copyright owner and the employee
 - materials being previewed to reach a decision about future purchase have been acquired by district curriculum office

Educational Fair Use

(An Ad Hoc Committee of Educational Institutions and Organizations on Copyright Law Revision, the Authors League of America, Inc., and the Association of American Publishers, Inc. drafted these guidelines dated March 19, 1976.)

Books and Periodicals Fair Use

Single copying for teachers

A single copy may be made of any of the following by or for a teacher at his or her individual request for his or her scholarly research or use in teaching or preparation to teach a class:

- chapter from a book
- article from a periodical or newspaper
- short story, short essay, or short poem
- chart, graph, diagram, drawing, cartoon or picture from a book, periodical, or newspaper

Multiple copies for classroom use

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

- Meets the tests of brevity and spontaneity as defined below
- Meets the cumulative effect test as defined below
 - Brevity:** Amount to be copied, generally not more than 10% of the total work
 - Spontaneity:** Instructor does not have time to seek permission
 - Cumulative effect:** No more than 9 instances of such multiple copying for one course during one class term
- Each copy includes a notice of copyright
- Copying shall not be used to create or to replace or substitute for anthologies, compilations or collective works.
- No copying from works intended to be "consumable" including workbooks, exercises, standardized tests, test booklets and answer sheets
- Copying shall not:
 - Substitute for the purchase of books or periodicals
 - Be repeated with respect to the same item by the same teacher from year to year
 - No charge shall be made to the student beyond the actual cost of the photocopying

Audio Visual Fair Use

The audiovisual section of the law does provide a "fair use" exemption for schools. These requirements MUST be met before a performance is considered acceptable under this educational exemption to the public performance restriction:

- An instructor or pupil must present the performance.
- The performance must occur in the course of face-to-face teaching activities.
- The performance must take place in a classroom or similar place for instruction (including the library).
- The performance must be a legally acquired (or legally copied) copy of the work.

Examples of Acceptable Performance:

- A teacher shows a library-owned video to his sixth grade science class to demonstrate the effects of water pollution as a part of a lesson on ecology. This use is protected under the educational exemption because it meets all four of the above criteria.
- An English teacher's classes have been studying Romeo and Juliet. To conclude the unit, the teacher shows a library-owned tape of the Franco Zeffirelli version of the play in class. The video must be shown at the same time you are studying the play, not six weeks later or before. This is protected under the educational exemption.
- An elementary school music teacher plays a recording of a performance of John Philip Sousa's Stars and Stripes Forever as part of a unit on patriotic music for third graders. The recording is accompanied by the music text.

Examples of Unacceptable Performance:

- The PTA shows a library-owned copy of The Little Mermaid to the children of members in a classroom while the officers have a meeting in the library. The copy is legally acquired, the performance takes place in a classroom, and a teacher or pupil presents the performance, but this performance is not part of face-to-face teaching activities. This would be considered entertainment or reward, and as such is not permitted without public performance rights.
- Renting a copy of a video would have no effect on the legality of the above performance, plus the school may be liable for providing equipment for an infringing performance. The same prohibition would apply to movies or recordings used to reward classes for good grades, commendable behavior, or perfect attendance.
- On the last day of the semester, the American history teacher decides to play an audiotape on the Cuban missile crisis so he can calculate his grades while students are occupied. The class is not currently studying that portion of the curriculum. This use is not acceptable because the face-to-face teaching requirement is not met. It makes no difference that the topic will eventually be covered in the curriculum. Public performance rights apply.

Safari Montage digital videos are designed to be used in an educational setting with performance rights paid as a yearly subscription fee. Teachers are encouraged to use this resource first and foremost in their selection of curriculum audio visual support. Note: acquiring new content for Safari Montage will be considered yearly and based on available titles plus budget allowances.

Permitted Uses for Educational Multimedia

(This non-legislative report was adopted by the Subcommittee on Courts and Intellectual Property, Committee on the Judiciary, US House of Representatives, on September 27, 1996.)

Permitted Uses

STUDENTS:

- Students may use portions of legally acquired copyrighted materials in their own educational multimedia projects for a specific course.
- Students may retain projects in a portfolio for personal use such as job and graduate school interviews
- Students may perform and display projects in the course for which it was created

TEACHERS:

- Teachers may use portions of legally acquired copyrighted materials when producing their own educational multimedia projects for their own teaching tools in support of curriculum-based instructional activities. The following conditions must be met:
- Used in face-to-face instruction
- Assigned to students for directed self-study
- Used in distance education courses
- Used in peer conferences
- Used in professional portfolios

Limitations Time, Portion, Copying and Distribution

| TIME | The work may be kept for 2 years | |
|------------------------|--|------------------------------|
| PORTION | Motion media | 10% or 3 minutes |
| | Text | 10% or 1000 words |
| | Music | 10% or 30 seconds |
| | Illustrations/ Photos | No more than 5 by one artist |
| | Numerical Data sets | 10% or 2500 fields |
| COPYING & DISTRIBUTION | 2 copies may be made, including the original | |

When is permission required?

- Non-educational or commercial use
- Use beyond the limitations of time, portion, copying and distribution
- Distribution beyond the limitations listed

Guidelines for Libraries: Photocopying

U. S. Code, Title 17, Section 108

It is not an infringement of copyright for a library or any of its employees to reproduce no more than one copy of an article from a periodical issue, chapter from a book, section from an encyclopedia or other reference tool, etc. under the following circumstances:

- The copy must become the property of the user
- The library displays a warning of copyright
- The copy includes a notice of copyright
- The employee is not aware that the user is distributing multiple copies
- The employee is not systematically reproducing or distributing multiple copies
- If more copies are needed, the library should seek permission to copy
- *Section 108* does not prohibit Interlibrary Loan activity or photocopying for educational purposes.
- If students make their own copies, the library is not responsible for infringement of copyright if the copy machine displays a notice that the making of a copy may be subject to the copyright law, *Section 108 (f)*.

Guidelines for Libraries: Off-Air Recording

H. R. 97-495 1979 (House Report)

A committee consisting of representatives from educational organizations, copyright proprietors, and creative guilds and unions established the following guidelines for "*fair use*" in the recording, retention, and use of television programs for educational purposes.

- Guidelines apply only to recording by non-profit educational institutions
- Limited number of copies of the program may be made
- Copies may be retained only for 45 days, then erased
- Copies may be shown once during the first 10 days
- Recording may be made only at the request of an instructor
- After initial 10 days, copies may be used for evaluation
- Original form of the program may not be altered
- Copy must contain a notice of copyright

Suggested Warnings

Sign to be displayed where photocopies are requested or made.

Warning Concerning Copyright Restrictions

The copyright law of the United State (Title 17, US Code) governs the making of photocopies or other reproductions of copyrighted material. 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 purpose 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.

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Notice for Unsupervised Reproducing Equipment Photocopiers, computers, fax machines, audio duplication equipment.

U. S. Code, Title 17, Section 108 (f)(1)

Notice

The copyright law of the United States (Title 17 U. S. Code) governs the making of photocopies or other reproductions of copyrighted material. The person using this equipment is liable for any infringement.

Notice to be placed on a copy or reproduction of a work, article from a periodical, chapter from a book, or electronic file.

Section 108 (a)(3)

Notice

This material may be protected by copyright law (Title 17 U. S. Code)
© (Publisher's name) (date)

General Library Guidelines:

Length of Copyright

The 1976 Copyright Act, Section 202, determined the duration of copyright generally to be 75 years after the death of the author unless another entity purchased or inherited the rights.

Loaning Materials

There is nothing in the Copyright Law that prohibits library materials, including books, videotapes, periodicals, computer programs, etc. from circulating.

Motion Picture Licensing Corporation

The Motion Picture Licensing Corporation Umbrella License allows the business community, profit or non-profit institutions and any other organization or governmental body, unlimited exhibitions at a designated site within the facility of all home videocassette titles of MPLC-affiliated studios.

Online Databases

A search completed for a student must become the property of the user. The search strategy may be retained for future use. Always check the documentation for each online database for special restrictions on usage.

Replacing a lost, stolen, or damaged item

A copy of a lost, stolen, or damaged item may be made if the library has made reasonable effort to determine that an unused replacement cannot be obtained at a fair price. Section 108 (c)

Public Domain

Copies made of materials on which the copyright has expired is considered part of the public domain. Materials where the author never claimed copyright (dedicated to the public) or materials produced by the federal government (section 105) are also considered public domain materials.

Out of Print Materials

If you wish to reproduce materials that are out of print, you must make every attempt to find a current owner of the material by contacting publishers, authors, or searching an online bibliographic database. If you cannot find a current owner after a reasonable attempt, you may copy the material.

Off-Air Taping

Off-air taping of television programs for educational purposes is permissible within certain guidelines. The key to remember is 10-45. A broadcast program may be recorded and used by educators without charge for a period not to exceed the first 45 consecutive days after the date of the recording. Off-air recordings may then be used once by teachers in relevant teaching activities, and repeated once when instructional reinforcement is necessary during the first 10 days in the 45-day retention period. Off-air recordings may only be made at the request of teachers and not in anticipation of requests. Off-air copies may not be altered from their original content or combined or merged into other compilations.

For Home Use Only

Section 110 (1) of the US Code Title 17 sets forth circumstances under which performances in school are not infringements of copyright:

“Performance or display of a work by instructors or pupils in the course of face-to-face teaching activities of a non-profit educational institution, in a classroom or similar place devoted to instruction, is not an infringement of copyright unless... the performance...is given by means of a copy not lawfully made.”

This limits viewing to teaching situations and does not permit viewing chiefly for entertainment, recreation, rewards, or cultural events held at a school.

In summary, the following rules must be met for videos to be shown legally as stated in Public Law HR Report 94-146, Section 107 and 110:

- They must be relevant to the curriculum being taught
- They must be used in face-to-face instruction
- No admission can be charged
- Showing the video must NOT be for a reward or as a time filler at vacation or other “crunch” times.

It is advisable for teachers to include the titles of any videos used in their classroom in their lesson plans prior to usage. This includes Information Center videos, off-air videos, rented videos, ITV videos, etc.

Libraries may loan video recordings as long as the borrower is apprised of copyright restrictions.
Section 109 (a)

Under no circumstances, can video recordings be duplicated without permission of the copyright holder.

IMPORTANT REMINDERS!

- **Caution in downloading material from the Internet**
Access to works on the Internet does not automatically mean that these can be reproduced and reused without permission or royalty payment
- **Attribution and acknowledgment**
Credit the sources and display the copyright notice © for all works
- **Notice of use restrictions**
Certain materials are included under the fair use exemption of the U. S. Copyright Law and have been prepared according to the educational multimedia fair use guidelines and are restricted from further use.

Last Updated: August, 2010

- **Future uses beyond fair use**
If there is a possibility that future use might result in a broader distribution, obtain permission during the development stages rather than after completion of the project.
- **Integrity of copyrighted works: Alterations**
Alterations in the works may be made to support specific educational objectives. Note that alterations have been made.
- **Reproduction or recompilation of copyrighted computer programs**
Reproduction of computer programs, underlying code or control mechanisms does not fall under these guidelines.
- **Licenses and contracts**
Fair use and guidelines shall not preempt or supersede licenses and contractual obligations.

WebPages Copyright Permission Letter

DIRECTIONS:

When a student or staff member wishes to "re-publish" someone else's writing or graphics on a Millard Public School Web site, explicit permission must be obtained from the owner of copyright or evidence must be provided that the materials are "in the public domain." The form below may be copied and pasted into an e-mail message sent to the owner of the site and/or the owner of copyright. An e-mail reply, which answers all questions fully and grants permission should be printed out and presented along with any Web pages being submitted to the information/media specialist for publication. Every Web page containing such items must provide full credit to the source, indicate that permission was granted and include a notice clarifying that all rights are still reserved by the copyright owner.

***** Copy the letter below and E-Mail to Site Owner *****

Millard Public Schools Copyright Permission Request

- (Type Name of School here)
- (Type Name of Web master here)
- (Type e-mail address of Web master here)
- (Type URL (s) (addresses) of Web page containing desired item(s))

Dear (insert name of Site Manager):

I am a (insert either "student" or "teacher") in the Millard Public Schools creating Web pages for a school project. My school is (insert name of school). My e-mail address is (insert full e-mail address). We are currently engaged in a project which (insert description of the project and its goals here). While doing research for this project, I visited your excellent site and was very much impressed with what you have done. I am interested in gaining permission to "re-publish" the following material from your Web site on our school's Web site:

- (describe first item)
- (describe additional items)

Are you the holder of a copyright for these materials? Yes No

If you are not the holder of a copyright, can you identify the owner and supply an e-mail address so that I may contact the owner?

If you are the holder of copyright, may we "republish" these items, including at the bottom of the Web page a clear notice that we are "re-publishing" the item with your permission, with all rights reserved?

- I give my permission.
- I do not give my permission.

Please write the words you wish for us to place at the bottom of the page describing your copyright restrictions.

Thanks so much for your time and assistance. We appreciate your contribution to the development of excellent content on the Web. Please send back this whole message with you name and title at the bottom so that we can identify the source of permission.

Sincerely,

(insert your name)

Copyright Permissions Letter

Millard Public Schools
School Name **(Or School Letterhead)**
Address
Omaha, NE

Date
Name of Publisher
Address

Dear Permissions Department:

I am requesting permission to use the following materials. The materials being requested will be used or digitized in an instructional package.

(INSERT)

- Title
- Copyright information
- Author
- Material to be duplicated
- Number of copies
- Distribution
- Type of reprint
- Course name – name of teacher

The materials will be used for educational purposes and not for profit. Thank you for your response to this request within a 30-day period so that we may continue our project. Enclosed is a self-addressed stamped envelope.

Sincerely,

XXXXXXXXXXXXXXXXXXXX



Producer/Copyright Owner Reply

Permission is granted _____ refused _____

Conditions:

Approved by (signature) _____ Date: _____

COPYRIGHT SUGGESTIONS FOR ADMINISTRATORS

- Model copyright compliance
- Be aware of video use in your building
- Insist that teachers document each video performance in lesson plans
- Insist that teachers clear all video use through your office
- Know your curriculum
- Watch extracurricular activities
- Enlist the assistance of your information specialist
- Help teachers find creative, non-video ways to reward students
- Keep accurate purchase records for AV and computer materials
- Assist staff in their effort to stay copyright compliant
- Keep an upbeat attitude
- Remember: good faith effort and an honest accounting can go a long way

COPYRIGHT DO'S AND DON'TS for STAFF

- **DO** make sure that all AV materials shown to students are directly related to the curriculum
- **DON'T** show videos for rewards
- **DO** ask your information specialist or principal for clarification
- **DON'T** copy commercial software, tapes, CD's or DVD's
- **DO** use published works for teaching purposes only
- **DON'T** copy consumable workbooks
- **DO** require your students to follow copyright guidelines
- **DON'T** create new works (anthologies) on videotape or the copy machine
- **DO** be a role model for your students by following the law