

# CENTER FOR CREATIVITY, INNOVATION, AND DISCOVERY

## Copyright Policy

### Purpose

The Board of Directors of the Center for Creativity, Innovation, and Discovery has established this policy to ensure that employees and students at the school comply with all provisions of Title 17 of the United States Code, entitled "Copyrights," and other relevant federal law, state law, and guidelines related to the duplication, retention, and use of copyrighted material. The board acknowledges that the purpose of copyright law is to balance the rights of both authors (copyright holders) and users in the promotion of creativity, innovation, and the spread of knowledge. This policy applies to the work of students and teachers who use other people's copyrighted material as part of their own academic or creative work, and it embodies the core legal principles of the Copyright Act of 1976.

### Definitions

Authors' Rights: means the rights of the copyright holder to control how the work you have created is distributed. The copyright holder is responsible for detecting infringement, such as when others distribute an author's copyrighted work without permission.

Computer Guidelines: is the requirement to assume all original material found online (text, images, software, music, videos, etc.) is copyrighted unless it is explicitly marked as public domain or has a clear, permissive license. The absence of a copyright symbol does not mean it is free to use.

Face-to-Face Classroom Exception: means Section 110(1) of the Copyright Act which allows for performance and display of copyrighted works in a physical classroom setting.

Fair Use: is a legal doctrine allowing limited use of copyrighted work without permission for purposes like teaching, research, and criticism. Whether a use is considered "fair" is determined on a case-by-case basis by evaluating four factors: the purpose and character of the use, the nature of the copyrighted work, the amount and substantiality of the portion used, and the effect of the use upon the potential market for or value of the copyrighted work.

Public Domain refers to works that are not protected by copyright and can be used freely.

TEACH Act: means the Technology, Education, and Copyright Harmonization Act, a 2002 U.S. law, that amended the Copyright Act to allow educators to use copyrighted materials for distance education under specific, restricted conditions. The act expands the ability for educators to display and perform both digital and non-digital works for

classes conducted online, as long as they follow copyright law and take precautions to ensure that students are the only ones accessing the materials.

User's Rights: Under some circumstances, users can use copyrighted works as part of their own creative work. The doctrine of fair use states that people can use copyrighted works without payment or permission when the social benefit of the use outweighs the harm to the copyright holder. To make a fair use determination, users must consider all the factors involved in the context and situation of their use of the copyrighted material.

### **Four Factor Test of Fair Use**

In accordance with Copyright law, the school follows the principle, commonly called "fair use," that allows for the reproduction of copyright works for certain limited, educational purposes in a way that does not constitute copyright infringement.

The Copyright Act establishes a four factor test, the "fair use test," to determine whether a use of a copyrighted work is fair use that does not require the permission of the copyright owner. The fair use test is fact specific and requires careful attention to variations on the proposed use of copyrighted material. School employees and students must consider the following four factors to determine whether a proposed use of copyrighted material is fair:

- Purpose: The purpose and character of the use, including whether such use is of a commercial nature, or is for nonprofit education purposes.
  - Materials should be used in class only for the purpose of serving the needs of specified educational programs.
  - Students should not be charged a fee specifically or directly for the materials.
- Nature: The nature of the copyrighted work.
  - Only those portions of the work relevant to the educational objectives of the course should be used in the classroom.
  - The law of fair use applies more narrowly to highly creative works; accordingly, avoid substantial excerpts from novels, short stories, poetry, modern art images, and other such materials.
  - Instructors should not distribute copies of "consumable" materials such as test forms and workbook pages that are meant to be used and repurchased.
- Amount: The amount and substantiality of the portion used in relation to the copyrighted work as a whole.
  - Materials used in the classroom will generally be limited to brief works or brief excerpts from longer works. (e.g. a single chapter from a book, an individual article from a journal, and individual new article).
  - The amount of work used should be related directly to the educational objectives of the course.

- Effect: The effect of the use upon the potential market for, or value of, the copyrighted work.
  - The instructor should consider whether the copying harms the market or sale of the copyrighted material.
  - Materials used in the class should include a citation to the original source of publication and a form of a copyright notice.
  - The instructor should consider whether materials are reasonably available and affordable for students to purchase, whether as a book, course pack, or other format.

### **Employee Use of Copyrighted Materials**

Employees who use copyrighted materials that do not fall within fair use, public display, or computer guidelines must be able to substantiate that the materials meet one of the following tests:

- The materials have been purchased from an authorized vendor by the employee or the school;
- The materials are copies covered by a licensing agreement between the copyright owner and the school;
- The materials are being previewed or demonstrated by the user to reach a decision about future purchase or licensing and a valid agreement exists that allows for such use.

### **Prohibitions and Guidelines**

Unlawful copies of copyrighted materials may not be produced on school-owned equipment, used with school-owned equipment, used within school-owned facilities, or used at school-sponsored functions.

- The legal and insurance protection of the school will not be extended to employees who unlawfully copy and use copyrighted materials.
- Employees who make copies and/or use copyrighted materials in their jobs are expected to be familiar with the provisions of this policy regarding fair use, public display, and computer guidelines.
- Employees are further expected to be able to provide their supervisor, upon request, the justification based on fair use, public display, or computer guidelines, as specified in the copyright laws.

### **Employee Use of Resources for Educational Purposes**

Employees may make a single copy of any of the following for scholarly use in research, teaching, or class preparation:

- A chapter from a book;
- An article from a periodical or newspaper;
- A short story, short essay, or short poem, whether or not from a collective work;

- A chart, graph, diagram, drawing, cartoon, or picture from a book, periodical, or newspaper.
- Teachers may make multiple copies (not to exceed one copy per student in a course) for the purpose of classroom use of discussion, provided that the copying meets the tests of brevity, spontaneity, and cumulative effect, and each copy includes a notice of copyright.
- The brevity test includes the following:
  - Poetry, not to exceed 250 words;
  - Prose, either a complete article, story or essay, or less than 2,500 words, or an excerpt from any prose work of not more than 1,000 words or 10% of the work, whichever, is less, with a minimum of 500 words;
  - Illustration, one chart, graph, diagram, drawing, cartoon, or picture per book or per periodical;
  - Special works that combine poetry, prose and illustration (sometimes intended for children), not more than 2,500 words.
- The spontaneity test includes the following:
  - The copying is at the inspiration of the individual teacher for the purpose of maximum teaching effectiveness; and,
  - The work's needed use subsequent to this inspiration is so close in time as not to permit a timely reply to a request for permission.
- The cumulative test includes the following:
  - The copying of the material is for only one course in the school;
  - The copying includes no more than one short poem, article, story, essay, or two excerpts from the same author, or three excerpts from the same collective work or periodical volume during one class term;
  - No more than nine instances of such multiple copying for one course during one class term; and,
  - That these limitations do not apply to current news periodicals and newspapers or current news sections of other periodicals.
- Approved excerpts of video must be part of the instructional program, must be used in the context of systematic instructional activities, and must be shown with an understanding of a work's individual restrictions.
- The use of illegally copied software is prohibited at the school, and all software licensing agreements of copyright holders must be observed; school equipment may not be used to make illegal copies of software.
- The use of illegally copied music is prohibited at the school, and all music licensing agreements of copyright holders must be observed; school equipment may not be used to make illegal copies of music.

## **Special Exemptions for Teachers and Librarians**

Copyright law includes provisions that enable educators to use copyrighted material for teaching and learning.

- Section 110 allows educators to make performances and displays of all types of works in a classroom.
- Students and teachers can show videos, read plays, project slides or use copyrighted materials in other ways for educational purposes.
- When materials are used for online distribution, the law allows posting of materials to servers under some conditions.
- When teachers want to use materials for online learning, they may also rely on the doctrine of fair use or seek permission.

### **Employee Use or Duplication of Copyrighted Music**

- Permissible copies of sheet music include emergency copies to replace purchased copies, which are not available for an imminent performance provided that replacement copies are either purchased in due course or immediately destroyed following the performance.
- Multiple copies of excerpts of works may be made for academic purposes, provided that the excerpts do not constitute a performable unit, but in no case more than 10% of the whole work. The number of copies may not exceed one per student.
- A single copy may be made of a performable unit that is out of print or unavailable except in a larger work provided that the copy is for the use of the teacher in scholarly research or preparation to teach a class.
- Printed copies that 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 added, if none exist.
- A single copy of a sound recording of copyrighted music may be made from sound recordings owned by the school or the teacher for the purpose of constructing aural exercises or examinations.

### **Permission and Licensing**

If an individual is using copyrighted material for the same purpose as the original, or an individual does not feel that their use of the work qualifies for a fair use exemption, the school requires that the user ask permission from the copyright holder. Employees may work with administrators to acquire licenses and permissions for materials that do not fall under fair use, such as showing films for fundraising or during non-instructional hours.

### **Attribution and Good Faith**

Using attribution is a sign of good faith in the fair use process, but it does not shield a

user from copyright liability. Users must make careful fair use determinations before using copyrighted material even when they attribute a creative work to an author.

### **Ownership of Created Work**

When employees create work as part of the scope of their employment, which includes using school time, resources, funds of the school, or in a class context, the school owns the copyright for that work. To own the copyright for their work, employees must create the work on their own time, using their own equipment, and outside of their scope of work or official job duties.

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