USE OF COPYRIGHTED MATERIALS

Employees and students shall not reproduce copyrighted materials without prior permission of the copyright owner, except as allowed by the "fair use" doctrine.

A. Fair Use: Reference: Copyright Act, Section 107.

The "fair use" doctrine permits limited use of copyrighted materials in certain situations, including teaching and scholarship. In some instances, copyright may be required for works that fall within "fair use."

B. 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:

1. A chapter from a book
2. An article from a periodical or newspaper
3. A short story, short essay or short poem, whether or not from a collective work
4. A chart, graph, diagram, drawing, cartoon or picture from a book, periodical, or newspaper

C. 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 giving the course for classroom use or discussion, provided that:

1. The copying meets the tests of brevity and spontaneity as defined below; and
2. Meets the cumulative effect test as defined below; and
3. Each copy includes a notice of copyright

D. Definitions:

1. Brevity:
   (a) Poetry: (1) A complete poem if less than 250 words and if printed on not more than two pages or (2) from a longer poem, an excerpt of not more than 250 words.
   (b) Prose: (1) Either a complete article, story or essay of less than 2,500 words, or (b) an excerpt from any prose work of not more than 1,000 words or 10% of the work, whichever is less, but in any event a minimum of 500 words. (Each of the numerical limits stated in "B" and "C" above may be expanded to permit the completion of an unfinished line of a poem or of an unfinished prose paragraph.)
   (c) Illustration: One chart, graph, diagram, drawing, cartoon or picture per book or per periodical issue.
   (d) "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 a more general audience fall short of 2,500 words in their entirety. Paragraph "i" above notwithstanding such "special works" may not be reproduced in their entirety; however, an excerpt comprising not more than two of the published pages of such special work and containing not more than 10% of the words found in the text thereof may be reproduced.

2. Spontaneity:
   (a) The copying is at the instance and inspiration of the individual teacher; and
   (b) 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.

3. Cumulative Effect:
   (a) The copying of the material is for only one course in the school in which the copies are made.
   (b) Not more than one short poem, article, story, essay or two excerpts may be copied from the same author, nor more than three from the same collective work or periodical volume during one class term.
   (c) There shall not be more than nine instances of such multiple copying for one course during one class term. (The limitations stated in "ii" and "iii" above shall not apply to current news periodicals and newspapers and current news sections of other periodicals.)

E. Prohibitions: Notwithstanding any of the above, the following shall be prohibited:
1. 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 therefrom are accumulated or are reproduced and used separately.
2. There shall be no copying of or from works intended to be "consumable" in the course of study or teaching. These include workbooks, exercises, standardized tests and test booklets and answer sheets and like consumable material.
3. Copying shall not:
   (a) substitute for the purchase of books, publisher's reprints or periodicals
   (b) be directed by higher authority
   (c) be repeated with respect to the same item by the same teacher from term to term.
4. No charge shall be made to the student beyond the actual cost of the photocopying.


Permission from the copyright owner should be obtained when using excerpts of copyrighted work to create anthologies or "coursepacks," even if the excerpts fall under the definitions in the “fair use” doctrine.
G. Online Courses: Reference: The TEACH (Technology, Education and Copyright Harmonization) Act, USC 17, Copyright Act, Sections 110(2) and 112

The Teach Act provides instructors greater flexibility to use third party copyrighted works in online courses. An individual assessment will be required to determine whether a given use is protected under the Act. The following criteria are generally required:
1. The online instruction is mediated by an instructor who is obligated to provide regular and effective contact per Title 5 regulations.
2. The transmission of the material is limited to receipt by students enrolled in the course. Students must authenticate through Blackboard (or other course management system) to access materials. Only students officially enrolled in the course are permitted to access Blackboard materials.
3. Technical safeguards are used to prevent retention of the transmission for longer than the class session. Blackboard courses are made available a week before the beginning of the semester and are made unavailable one week after the end of the semester.
4. The performance is either of a non-dramatic work or a “reasonable and limited portion” of any other work that is comparable to that displayed in a live classroom session. This requirement is similar to face-to-face classroom compliance requirements.
5. The work is not a textbook, course pack, or other material typically purchased or acquired by students for their independent use and retention, including commercial works that are sold or licensed for the purposes of digital distance education. This requirement is similar to face-to-face classroom compliance requirements.
6. The district does not know, or have reason to know, that the copy of the work was not lawfully made or acquired. This requirement is similar to face-to-face classroom compliance requirements.
7. The District notifies students that the works may be subject to copyright protection and that they may not violate the legal rights of the copyright holder. A notice has been placed on the Distance Education website, linked from the COS home page. A notice will be placed on the new Bb login page.

H. Obtaining Permission to Use Copyrighted Material:
1. Employees submitting a work order to copy materials are required to sign a statement (Use of Copyright Materials form) acknowledging that the request is in compliance with all applicable copyright laws and attaching copyright permission where appropriate.
2. Faculty members requesting that self-assembled materials (such as syllabi) be approved for sale in the Bookstore are required to sign a statement (Use of Copyright Materials form) that the request is in compliance with all applicable copyright laws and to attach copyright permission where appropriate.
3. It is the sole responsibility of the faculty and/or staff member requesting the copies to ensure materials meet copyright standards. Materials submitted for
copying or sale that do not include necessary copyright permission will be returned to the originator. Employees needing assistance with obtaining copyright permission should contact the office of their supervising Vice President.  

4. Employees unsure as to whether they are violating copyright law will be directed to the U.S. Copyright Office’s website at http://www.loc.gov/copyright.

References: U.S. Code Title 17, Copyright Act of 1976; Education Code Sections 32360, 67302

Forms: Use of Copyrighted Materials (to be created)

May 12, 2009