

**Use of Copyrighted Materials**

The Solano County Office of Education (SCOE) recognizes the importance of ensuring its compliance with federal law regarding copyrights. SCOE staff and students are expected to maintain the highest ethical standards in using copyrighted materials.

When selecting appropriate supplementary instructional materials, it is each staff member's responsibility to adhere to the provisions of federal copyright law, SCOE policy, and administrative regulations. SCOE shall not be responsible for any violation of copyright laws by its staff or students. If a staff member is uncertain as to whether reproducing or using copyrighted material complies with the law, s/he shall contact the County Superintendent or designee for clarification and assistance. At no time shall it be necessary for a SCOE employee to violate copyright laws in order to perform his/her duties.

The Superintendent or designee shall ensure that SCOE observes all publisher licensing agreements between vendors and SCOE, including monitoring the number of users permitted by an agreement. Unless the applicable licensing agreement authorizes multiple users of a single program, SCOE shall not make multiple copies of a computer program or software. Staff members shall take reasonable precautions to prevent copying or the use of unauthorized copies on school equipment.

The Superintendent or designee shall ensure that staff and students receive information and training about copyright laws and the penalties for violating such laws.

Each employee making a reproduction shall first determine whether the copying is permitted by law based on the guidelines below. If the copying is not permitted according to these guidelines, the principal/designee may request permission to reproduce the material from its copyright holders.

Requests for permission to use copyrighted materials shall include the following information:

1. Title, author(s), editor(s) or publisher, producer(s) or distributor.
2. Edition, copyright and/or production year.
3. Exact amount of material to be used (i.e., lines, pages, running time, etc.).
4. Nature of the use (i.e., how many times, when and with whom the material will be used).
5. Number of copies to be made.
6. How the material will be reproduced.
7. If an initial contact was made by phone, the request shall also include the name of the initial contact person.

The following guidelines differentiate between permitted and prohibited uses of printed material, sheet and recorded music, videotapes, films, filmstrips or slide programs, off-air taping (radio or television), and computer software.

**PRINTED MATERIALS**

**Permitted Use:**

1. Single copies at the request of an individual teacher:
  - a. A chapter of a book.
  - b. An article from a magazine or newspaper.
  - c. A short story, short essay, or short poem, whether or not from a collective work.

**Policy 6162.6 (Continued)**

- d. A chart, graph, diagram, drawing, cartoon or a picture from a book, magazine, or newspaper.
2. Multiple copies at the request of an individual teacher for classroom use, not to exceed one copy per student in a course:
  - a. A complete poem if less than 250 words and if printed on not more than two pages.
  - b. An excerpt from a longer poem, not to exceed 250 words.
  - c. A complete article, story or essay of less than 2,500 words.
  - d. An excerpt from a larger prose work not to exceed ten percent of the whole or 1,000 words, whichever is less, but in any event a minimum of 500 words.
  - e. One chart, graph, diagram, cartoon, or picture per book or magazine issue.

All preceding copies must bear the copyright notice. They may be made only at the discretion of the individual teacher on occasions when a delay to request permission would preclude their most effective instructional use.

Prohibited Uses:

1. Copying more than one work or two excerpts from a single author during one class term.
2. Copying more than three works from a collective work or periodical volume during one class term.
3. Copying materials for more than one course in the school where the copies are made.
4. More than nine sets of multiple copies for distribution to students in one class term.
5. Copying used to create, replace or substitute for anthologies or collective works.
6. Copying of "consumable" works such as workbooks, standardized tests, answer sheets, etc.
7. Copying that substitutes for the purchase of books, publishers' reprints or periodicals.
8. Repeated copying of the same item by the same teacher from term to term.

The above prohibitions do not apply to current news magazines and newspapers.

**SHEET AND RECORDED MUSIC**

Permitted Uses:

1. Emergency copies for an imminent performance are permitted, provided they are replacing purchased copies and replacement is planned.
2. Multiple copies (one per student) of excerpts not constituting an entire performable unit or more than ten percent of the total work may be made for academic purposes other than performances.
3. Purchased sheet music may be edited or simplified provided the character of the work is not distorted or lyrics added or altered.
4. A single copy of a recorded performance by students may be retained by SCOE or individual teacher for evaluation or rehearsal purposes.
5. A single copy of recordings of copyrighted music owned by SCOE or individual teacher may be made and retained for the purpose of constructing exercises or examinations.
6. A single copy of an excerpt that constitutes an entire performable unit (i.e., a movement or aria) may be made, provided it is either:
  - a. Confirmed by the copyright proprietor to be out of print, or

**Policy 6162.6 (Continued)**

- b. Unavailable except in a larger work. This may be done by or for a teacher only for scholarly research or in preparation for teaching a class.
- 7. A single copy of a portion of a sound recording may be made by or for a student, i.e., a song from a record, but not the entire recording. The copy may be used in the educational context in which it was made and may not be sold or performed for profit.

Prohibited Uses:

- 1. Copying to replace or substitute for anthologies or collections.
- 2. Copying from works intended to be "consumable."
- 3. Copying for purposes of performance except as noted in an emergency.
- 4. Copying to substitute for purchase of music.
- 5. Copying without inclusion of copyright notice on the copy.
- 6. Duplication of tapes, unless reproduction rights were given at time of purchase.
- 7. Reproduction of musical works or conversion to another format, e.g. record to tape.

**VIDEOTAPES, FILMS, FILMSTRIPS OR SLIDE PROGRAMS**

Permitted Uses:

- 1. A single copy of a portion of a copyrighted film or filmstrip may be made by a student for educational purposes if the material is owned by the school which the student attends.
- 2. A single copy of a small portion of a film or filmstrip may be made by or for a teacher for scholarly or teaching purposes.
- 3. Selected slides may be reproduced from a series if reproduction does not exceed ten percent of the total or excerpt the essence of the work.
- 4. A slide or overhead transparency series may be created from multiple sources as long as creation does not exceed ten percent of photographs in one source (book, magazine, filmstrip, etc.). This may not be done when the source forbids photographic reproduction.
- 5. A single overhead transparency may be created from a single page of a "consumable" workbook.
- 6. Sections of a film may be excerpted for a local videotape (not to be shown over cable) if they do not exceed ten percent of the total or excerpt the essence of the work. Extreme care must be exercised in copying a small portion of a film or filmstrip; small portions may contain the very essence of the material in question.

Prohibited Uses:

- 1. Reproduction of an audiovisual work in its entirety.
- 2. Conversion from one media format to another, e.g., film to videotape, unless permission is secured.
- 3. No one is permitted to copy any portion of a film or filmstrip sent to the school for preview or rented or owned by another school or institution without the express written permission of the copyright holder. The copyright of a film governs its performance (showing) as well as the copying of it. It is permissible to show a film to students using closed-circuit television if the system is confined to one building. Showing a film via closed-circuit television outside the building is not permitted.

**RADIO – OFF-AIR TAPING**

Permitted Uses:

1. A single copy of a small portion of a copyrighted radio program may be made by a student for educational purposes. Such a copy may not be sold or performed for profit.
2. Copies of broadcasts by national public radio may be made by district employees and retained for an indefinite period for educational purposes.

Prohibited Uses:

1. Copying broadcasts on commercial radio, except for copyrighted musical selections (see Sheet and Recorded Music), is governed by the same copyright laws that apply to off-air taping of commercial television; however, there is no special provision allowing libraries to tape radio news programs.

**TELEVISION – OFF-AIR TAPING**

Permitted Uses:

1. A broadcast program may be recorded off-air simultaneously with broadcast transmission (including simultaneous cable retransmission) and retained for a period not to exceed 45 days. All off-air recordings shall be erased or destroyed at the end of the retention period. Broadcast programs are television programs transmitted for reception by the general public without charge.
2. Off-air recordings may be used once by individual teachers in the course of relevant teaching activities and repeated once only when instructional reinforcement is necessary. These recordings may be shown in classrooms and similar places devoted to instruction within a single building, cluster, or campus, as well as in the homes of students receiving formalized home instruction, during the first ten consecutive school days in the 45 calendar-day retention period.
3. Off-air recordings may be made only at the request of individual teachers, for use by those teachers. No broadcast program may be recorded off-air more than once at the request of the same teacher, regardless of the number of times the program may be broadcast.
4. A limited number of copies may be reproduced from each off-air recording to meet the legitimate needs of teachers under these guidelines. Each such additional copy shall be subject to all provisions governing the original recording.
5. After the first ten consecutive school days, off-air recordings may be used up to the end of the 45 calendar day retention period only for teacher evaluation purposes; i.e., to determine whether or not to include the broadcast program in the teaching curriculum; they may not be used for student exhibition or any other nonevaluation purpose without authorization.
6. All copies of off-air recordings shall include the copyright notice on the broadcast programs as recorded.

Prohibited Uses:

1. Off-air recording in anticipation of teacher requests.
2. Using the recording for instruction after the ten-day use period.
3. Holding the recording for weeks or indefinitely because:
  - a. Units needing the program concepts are not taught within the ten-day use period.
  - b. An interruption or technical problems delayed its use.
  - c. Another teacher wishes to use it, or for any other supposedly "legitimate" educational reason.

**Policy 6162.6 (Continued)**

4. On occasion a special notice is provided with some materials specifically prohibiting reproduction of any kind. Permission to use any part of such works must be secured in writing from the author or producer in accordance with this regulation.
5. Off-air recordings need not be used in their entirety, but the content of recorded programs may not be altered. Off- air recordings may not be physically or electronically combined or merged to constitute teaching anthologies or compilations.

**SOFTWARE COPYRIGHT**

Permitted Uses:

Copies of SCOE-owned software may be made only when:

1. The copy is needed as an essential step in using the computer program with a particular machine. This copy is to be used in no other way.
2. The copy is used for archival or "backup" purposes. This copy may be held only as a file copy and must be destroyed when the program is no longer rightfully owned by SCOE unless the copyright owner authorizes its sale, lease or transfer as part of the sale, lease or transfer of the original program. (United States Code, Title 17, Section 117).

Prohibited Uses:

1. Copies of copyrighted programs may not be made for any purpose other than the two permitted above.
2. When permission is obtained from the copyright holder to use software on a disk-sharing system, efforts will be made to secure software from copying.
3. Illegal copies of copyrighted programs shall not be made or used on school equipment.

Legal Reference:

EDUCATION CODE

35182 Computer software

UNITED STATES CODE, TITLE 17

101-122 Subject matter and scope of copyright, especially:

102 Definitions

107 Fair use

110 Limitations on exclusive rights: Exemption of certain performances and displays

COURT DECISIONS

Marcus v. Rowley, (9th Cir., 1982) 695 F.2d 1171

Policy Cross-Reference:

0440 District Technology Plan

1113 District and School Web Sites

3300 Expenditures and Purchases

3312 Contracts

4040 Employee Use of Technology

4119.1 Civil and Legal Rights

4119.21 Professional Standards

4131 Staff Development

4132 Publication or Creation of Materials

6161 Equipment, Books and Materials

6161.11 Supplementary Instructional Materials

6162.5 Student Assessment

6163.1 Library Media Centers

6163.4 Student Use of Technology