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Keeping It Legal in Guilford County Schools

A Quick Reference Guide

This information represents a researched, conservative interpretation of the copyright law and does not in any way substitute for legal advice. The intention is to serve as a guide for similar school-based situations.

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Copyright

cop|y|right (kop´ē rīt´)

n. a form of protection granted by law for original works of authorship including literary, dramatic, musical, and artistic works, such as poetry, novels, movies, songs, computer software, websites, and architecture.

A work is automatically protected by copyright as soon as it is created. The © symbol is not necessary for this protection.

Why Care?

- **It is the law.** (Title 17, United States Code, Public Law 94-553, 90 Stat. 2541, as amended)
- **It is a requirement of all GCS employees to abide by the law.** (*GCS Personnel Handbook*, Use of Copyrighted Materials)
- **It is in the curriculum.**
- **It is the right thing to do.** As educators, we have the responsibility to exhibit and model ethical behavior for our students.

GCS Personnel Handbook

Use of Copyrighted Materials

The Guilford County Schools requires that all employees be knowledgeable of and adhere to all provisions of current Federal copyright law Title 17 of U.S. Code and Congressional "fair use" guidelines. The district recognizes and supports the limitations on unauthorized duplication and use of copyrighted materials in all formats, as well as contractual and licensing agreements pertaining to the instructional use of all formats, including electronically transmitted materials. ***Willful or serious violations are considered to be in violation of expected standards of behavior for employees, students, and school visitors and may result in disciplinary action in accordance with board policy.*** *The legal and insurance protection of the district will not be extended to employees who unlawfully copy or unlawfully use copyrighted materials.*

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Basics

Exclusive Rights of Copyright Owner

The copyright law grants the copyright owner six exclusive rights. They are:

1. **Reproduction:** to make copies in any format
2. **Adaptation:** to create a new work by changing the original
3. **Distribution:** to distribute copies
4. **Public Performance:** to perform publicly
5. **Public Display:** to display in public
6. **Digital Transmission of Sound Recordings:** to perform a sound recording publicly through digital transmission

- Anyone using any of the exclusive rights of the copyright owner without permission or fair use exemption is in violation of the copyright law.

- None of the exclusive rights are transferred to the purchaser of a copyrighted work. The purchaser may give away, sell, lend, destroy or discard the work.

What are fair use exemptions?

Fair use exemptions are limited exceptions to the exclusive rights that apply only to non-profit educational institutions.

How is fair use determined?

Fair use is determined by applying the following four factors:

1. the purpose and character of the use
2. the nature of the work
3. amount and substantiality of the portion used
4. the effect of the use on the potential market for or value of the work

What are fair use guidelines?

Fair use guidelines are limits set by Congress on the reproduction and use, and the conditions under which materials can be used without permission.

Abiding by copyright law-- it's the right thing to do.

Computer Software

Guidelines

Making copies of computer software is not allowed under Fair Use.

Computer Software: FACTS

- The use of software is dependent on the software's license agreement.
- One copy of the software may be made for archival purposes unless otherwise stated in the license.
- Archival copies may not be used unless the original is destroyed.
- Unauthorized copying of software is considered piracy. Software piracy is a felony.
- Single-user software may not be installed on more than one computer. A multi-user or network license is required for this purpose.

Videos and DVDs

Fair Use Guidelines

These guidelines apply to videos and DVDs without public performance rights.

- The term, **"Public Performance Rights,"** refers to an exclusive right of copyright holders to show or "perform" the video or DVD in public.
- Students in schools and after-school programs fit the definition of "public" in the copyright law.
- Most videos are not purchased with public performance rights.

ALL FOUR guidelines below must be met for educational exemption.

1. Videos and DVDs must be presented by the instructor to students enrolled in a particular class.
2. The showing must occur in face-to-face instruction and be directly related to the current lesson.
3. The showing must take place in a classroom or normal educational setting.
4. The videotape or DVD must be legally acquired.

Videos and DVDs: FACTS

- **"Home Use Only"** videos and DVDs may be used in instruction IF ALL FOUR of the Fair Use Guidelines are met.
- Rented videos and DVDs may be used in instruction IF ALL FOUR of the Fair Use Guidelines are met.
- Videos and DVDs may not be shown for entertainment or reward without public performance rights.
- Videos and DVDs may not be shown in place of recess, as last minute substitute plans, or during lunch in the classroom without public performance rights.
- Videos and DVDs may not be shown to the entire school over an in-school broadcasting system or at an assembly without public performance rights.
- Videos and DVDs may not be shown in after-school programs or on field trip buses without public performance rights.
- Videos and DVDs may not be shown at PTA movie night, for baby-sitting, for fund raising or for any other non-instructional purpose without public performance rights.
- GCS does not have an approved list of videos or DVDs for school use. All videos and DVDs must meet the selection criteria in Board of Education Policy IFA and Procedures IFA-P.
- Age appropriateness is one criteria listed in IFA-P. Movie ratings are a recognized indicator of age appropriateness. It is recommended that parental permission be obtained for videos and DVDs with ratings above the age of students.
- All videos and DVDs should be previewed by the teacher before showing.
- Off-air recorded videos and DVDs may be used in instruction IF ALL FOUR of the Fair Use Guidelines are met. In addition, off-air recordings must comply with the guidelines that follow.

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Off-air Recording

Guidelines

These guidelines only apply to programs transmitted by television stations. There are no fair use guidelines for cable and satellite programs. Programs transmitted by cable or satellite may only be used with permission. Programs transmitted by television stations may be recorded off-air according to the following guidelines:

1. The videorecording may be kept for forty-five (45) days. After forty-five days the videorecording must be erased.
2. The videorecording may be shown one time within the first ten school days after recording. It may be shown one more time for review or clarification only.
3. The videorecording may be kept for an additional thirty-five (35) days and viewed only for evaluation purposes.
4. Programs may be recorded only once and only by teacher request.
5. Programs may not be recorded in anticipation of a teacher's request.
6. No program may be recorded more than once at the request of the same teacher no matter how many times the program is broadcast.
7. All programs must show copyright information.

Off-air Recording: FACTS

- Off-air recordings may be used in classrooms IF ALL FOUR of the Fair Use Guidelines are met.
- Programs may be recorded ONLY at the request of a teacher. Recordings may not be made in anticipation of use.
- Programs must be erased or destroyed after 45 days.
- A limited number of copies may be made to satisfy the recording requests within the school. All copies are subject to the same 10-day and 45-day guidelines.
- Programs transmitted by cable or satellite may not be used in schools without permission.
- Some programs broadcast on PBS and cable have educational rights. Specific information can be found online at Teacher Source and Cable in the Classroom. See resource list.

Recorded Music

Fair Use Guidelines

These guidelines apply to recorded music without a license for public performance.

- The term, **"Public Performance Rights,"** refers to an exclusive right of copyright holders to play or "perform" the recorded music in public. Students in schools and after-school programs fit the definition of "public" in the copyright law.

ALL FOUR guidelines below must be met for educational exemption. The recorded music:

1. Must be presented by the instructor to students enrolled in a particular class.
2. Must occur in face-to-face instruction and be directly related to the current lesson.
3. Must take place in a classroom or normal educational setting.
4. Must be legally acquired.

Recorded Music: FACTS

- A single copy of a recording of performances by students may be made for evaluation or rehearsal purposes and may be retained by the institution or individual teacher.
- Multiple copies of performances may not be made, distributed or sold without purchasing the required licenses.
- Copying for the purpose of substituting for the purchase of music is prohibited.
- Music may be performed in concerts and talent shows provided that the performers are not paid, admission is not charged, and the performance is not recorded and sold.
- Student news shows that are broadcast throughout the school do not meet the four guidelines for educational exemption. Seek permission to use copyrighted music in these programs.

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Print Materials

Fair Use Guidelines

Single Copying for Teachers

A single copy of the following may be made by or for a teacher, at the teacher's request, for educational use:

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

Multiple Copies for Classroom Use

Multiple copies may be made by or for the teacher of the class provided that ALL of the following conditions are met:

- The copying is in accordance with the Brevity Chart below.
- The number of copies does not exceed one per student in the class.
- The decision to use the material is spontaneous and there is not enough time to get permission from the copyright holder.
- Not more than one short poem, article, story, essay or two excerpts from the same author, nor more than three from the same collective work or periodical volume takes place during one class term.
- There are not more than nine instances of multiple copying for one course during one class term.
- Each copy includes a notice of copyright.

Prohibitions for Copying Print Materials for Teacher or Student Use

The following are prohibited:

- ☒ Copying "consumable" works including workbooks, exercises, standardized tests, test booklets, answer sheets
- ☒ Copying to substitute for purchase
- ☒ Copying to replace or create an anthology, collective work or compilation
- ☒ Charging students more than the actual cost of the photocopying
- ☒ Copying directed by a higher authority
- ☒ Copying the same print material term after term without getting permission from the copyright holder
- ☒ Reusing copies year after year without obtaining permission from the copyright holder

Print Materials: FACTS

- Print materials may not be audio-recorded without permission from the copyright holder. Changing the format is an exclusive right of the copyright holder.
- The law allows print materials to be audio-recorded on specialized equipment for students who are blind.
- Decorating school walls by painting murals of book characters or cartoon characters is prohibited by the copyright law. Permission or a license is required.

Brevity Chart

Print Material	What you can Copy
Poetry	Entire poem if less than 250 words
	250 words from a longer poem
Prose	Article, story or essay of less than 2500 words
	Excerpt of not more than 1000 words OR 10% of the work, whichever is less
Illustration	One chart, graph, diagram, drawing, cartoon, picture per book or periodical
Children's/Picture Books of less than 2500 words	Excerpt of no more than 2 pages and no more than 10% of the total text whichever is less ***May not be reproduced in its entirety***

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Internet

Fair Use Guidelines

There are no guidelines that define the use of the Internet in schools. Follow the Fair Use Guidelines for print materials when determining the limitations for using Internet print resources.

Check the web site for specific copyright restrictions.

Internet: FACTS

- Information in all formats used from the Internet must be cited.
- Graphics, text, music, webpages, etc. on the Internet are copyrighted.
- Permission is required to post another's work on the Internet.

Multimedia

FAIR USE Guidelines

The Fair Use Guidelines for multimedia projects limit the amount of each type of media that can be used and the purpose for which the projects can be used.

- The use of copyrighted material in multimedia project must be in accordance with the limits in the chart that follows.

- In addition, all teacher multimedia projects must include, on the opening screen and on any accompanying materials a statement that the presentation was prepared according to the fair use exemptions of the U.S. Copyright Law and are restricted from further use.

- Educators may perform or display their own multimedia productions:
  - In face-to-face curriculum based instruction
  - At peer conferences (may not share production)
  - In a demonstration on how to create such a production
  - For remote instruction with limited access (may be kept for only two years)

An unanswered request for permission does not mean that permission has been granted.

Multimedia: FACTS

- No more than two copies of the original project may be made.

- Projects must credit sources with full bibliographic information and must display the copyright notice.

- Teachers must seek permission for all copyrighted works before posting on the Internet.

- Teachers must seek permission for all copyrighted works before making more than two copies of the project.

Limits Chart for Multimedia	
Text	Up to 10% or 1000 words, which ever is less
	Poetry: entire poem if less that 250 words; 250 words of longer poem; no more than 3 excerpts from one poet; no more than 5 excerpts by different poets from an anthology
Motion Media (video, television, animation)	10% or 3 minutes, whichever is less
Music, lyrics & music video	10% but no more than 30 seconds
Illustrations & photographs	Must only be used in its entirety
	No more than 5 images from an artist's or photographer's works
	No more than 10% or 15 images from a collection

When in doubt, ask for permission.

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Copyright Resources

Brim, John. "Copyright Basics Document."
http://www.ncwiseowl.org/zones/professional/Conferences/Spring06/default.htm

Brim, John. "Copyright Basics PowerPoint."
http://www.ncwiseowl.org/zones/professional/Conferences/Spring06/default.htm

Cable in the Classroom
http://www.ciconline.org/default.htm

"Copyright in an Electronic Environment"
http://www.ncpublicschools.org/copyright1.html

Guilford County Schools, Library Media Services Web Page
http://schools.gcsnc.com/tpages/loxenfel/GCScright.htm

Indiana Public Schools
http://www.copyright.ips.k12.in.us/default.aspx

PBS Teacher Source
http://www.pbs.org/teachersource/copyright/copyright_trights.shtm

Russell, Carrie, editor. Complete Copyright: An Everyday Guide for Librarians. Chicago: ALA, 2004.

Simpson, Carol. Copyright Catechism: Practical Answers to Everyday School Dilemmas. Worthington, Ohio: Linworth Publishing, 2005.

Simpson, Carol. Copyright for Schools: a Practical Guide, 4th edition. Worthington, Ohio: Linworth Publishing, 2005.

U.S. Copyright Office
http://www.copyright.gov/

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