
OVERVIEW AND BOE POLICY

Copyright is legal protection for the authors of original literary, dramatic, musical, artistic and audiovisual works. By protecting the author's financial interests it provides incentive for the creation of new material. Educators, by virtue of their position as leaders and role models, have a special obligation to attend to both the letter and the spirit of the law.

Board of Education (BOE) policy states that it is the BOE's intent to conform to United States copyright laws and to maintain the highest possible ethical standards in the use of copyrighted materials for instructional purposes.

COPYRIGHT AND FAIR USE

Copyright law is complicated, specific and extensive. Although producers have specific rights under the law that cannot be denied, the law also allows educators and students to have access to information and to reproduce copyrighted materials under clearly defined limitations for educational purposes as specified in Section 107 of the copyright law. What follows are guidelines designed to aid educators in adhering to copyright law. Direct specific questions about situations and materials not covered in this discussion to the FCPS Media Services Department (301) 644-5133.

It is useful for educators to understand the doctrine of **fair use** so they can adhere to copyright law. Fair use holds that copyrighted material may be used without permission or payment only for such purposes as criticism, comment, news reporting, **teaching**, scholarship or research. Consider the following criteria when attempting to determine when the doctrine of fair use applies:

- the purpose and nature of the use, especially whether the use is of a commercial or non-profit educational purpose
- the nature of the copyrighted work
- What percentage of the work is being copied, and is it the crucial part?
- the effect on the commercial value or market of the material.

Fair use applies when all four criteria are met .

MATERIALS SELECTION POLICY

All instructional materials used in the Frederick County Public Schools must comply with the BOE's materials selection Policy 501.1. This policy provides that all instructional materials should help support and achieve the principle goals and objectives expressed in the curriculum guidelines, and courses of study used in the county schools. Additional, criteria for the selection of instructional materials is also included in the Evaluation Guidelines for the Review and Evaluation of Instructional Materials:
Materials Already in Use.

PRINT MATERIALS: GUIDELINES FOR FAIR USE

This section applies to books, dramatic scripts, periodicals, poems, articles, microforms, charts, graphs, diagrams, drawings, cartoons, photographs, paintings and maps.

Congress provided the following minimum standards for educational fair use. Some copying in excess of these limits may be a fair use, but educators must be very cautious about copying in excess of these amounts.

Single Copies for Individual Teacher Use

A teacher may make or request a single copy any of the following for his or her research or for use in teaching or preparing to teach a class:

- 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.

**It is not permissible to copy copyrighted, syndicated cartoon characters.*

Multiple Copies for Classroom Use

A teacher may make or request multiple copies (not to exceed one copy per student in a course) for classroom use or discussion provided that all four of the following criteria are met:

1. BREVITY

Type of Work	Suggested Safe Limits
Poetry	A complete poem if less than 250 words and if printed on not more than two pages; from a longer poem an excerpt of not more than 250 words
Prose	A complete article, story or essay of under 2,500 words; or, from a long work, an excerpt of up to 1,000 words or 10 percent of the work, whichever is less, but in any event a minimum of 500 words
Illustration	One chart, graph, diagram, drawing, cartoon* or picture per book or periodical issue
Special works of less than 2,500 words	Up to two pages of the text representing not more than 10 percent of the total words

** It is not permissible to copy copyrighted, syndicated cartoon characters.*

2. SPONTANEITY

The copying is at the inspiration of the individual teacher, and 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

- The copying of the material is for only one course in the school at which the copies are made.
- Not more than one short poem, article, story or essay or two excerpts may be copied from the same author during one class term.

- Not more than three excerpts may be copied from the same collective work or periodical volume during one class term.
- There may not be more than nine instances of any multiple copying for one course during one class term.

There is no limit on the number of copies that can be made of newspapers, the current news sections of periodicals, United States government works and works in the public domain. Public domain works are those in which the copyright has expired. Copyrights last the lifetime of the author, plus 50 years, for works created on and after January 1, 1978. Copyrights for works published before January 1, 1978, expire 75 years from the date of the publication.

4. A NOTICE OF COPYRIGHT must be included on each copy.

To avoid violation of the copyright law:

- DO NOT use copies to create, replace or substitute for anthologies, compilations or collective works—whether copies are accumulated or reproduced and used separately.
- DO NOT make copies of any work intended to be “consumable,” such as workbooks, exercises, standardized tests, test booklets and answer sheets.
- DO NOT use copies as a substitute for the purchase of books, publishers' reprints or periodicals.
- DO NOT repeat copying the same item from year to year without the publisher's permission.
- No charge may be made to the student beyond the actual cost of the photocopying.

PRINTED MUSICAL SCORES: GUIDELINES FOR FAIR USE

To comply with the copyright law, you may:

- copy music on an emergency basis to replace purchased copies which for any reason are not available for an imminent performance, provided purchased replacement copies are substituted in due course
- make single copies or up to one copy per student of excerpts of works for academic purposes other than performance, provided that the excerpts do not comprise a part of the whole which would constitute a performable unit, such as a section, movement or aria, but in no case more than 10 percent of the whole work.
- edit or simplify printed copies that have been purchased, provided that the fundamental character of the work is not distorted or lyrics altered or added.

To avoid violation of the copyright law:

- **DO NOT** use copies to create, replace or substitute for anthologies, compilations or collective works.
- **DO NOT** make copies from works intended to be “consumable” in the course of study or of teaching, such as workbooks, exercises, standardized tests and answer sheets.
- **DO NOT** make copies for the purpose of performance, except in emergency situations described above.
- **DO NOT** make copies for the purpose of substituting for the purchase of music.
- Each copy must include the notice of copyright that appears on the printed music.

The Frederick County Public School system does not discriminate in admissions, access, treatment, or employment in its programs and activities on the basis of race, color, gender, age, national origin, religion, sexual orientation, or disability. For more information contact the Executive Director of Legal Services (301) 696-6851.

PENALTIES FOR VIOLATING COPYRIGHT

The copyright law specifies a normal penalty of from \$500 to \$20,000 in statutory damages for each violation, but the penalty can be as much as \$100,000 for willful violation. Even if a defendant is judged not to be in violation of the law, court costs and legal fees must still be borne by the individual and/or the organization charged with the copyright infringement.

EXCEPTIONS

Many magazines and journals state their photocopying policies in each issue. Some allow more copying than the guidelines, while other journals have no restrictions at all. Policies that vary from the guidelines should be followed as stated.

OBTAINING PERMISSION TO COPY

If there is a question as to whether a particular act of copying might be in violation of the copyright law, obtain permission from the copyright holder before copies are made. Contact may be made initially by telephone, but should be followed immediately by a written request.

The written request should include:

- Title, author(s), editor(s), or publisher/producer(s), or director
- Edition, copyright and/or production year
- Exact amount of material to be used, e.g., lines or running time
- Reference to the initial contact individual, if the initial contact was made by phone
- Nature of the use, i.e., how many times, when and with whom the material will be used
- How the material will be reproduced

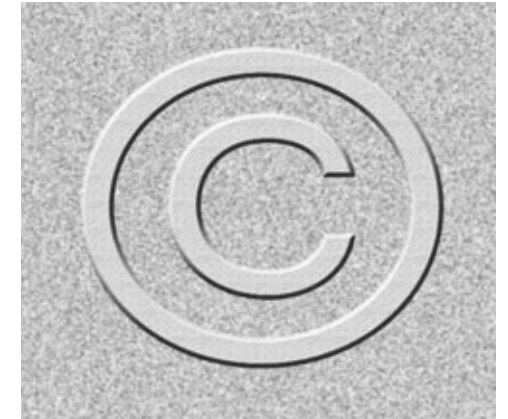
Sample permission request letters are available from the Resource Center, Hayward Complex, (301) 644-5133, or online at <http://insidefcps/dept/media/copyright.cfm>. Keep copies of all correspondence. If the request is granted, keep written permission on file.

SUMMARY OF SAFE LIMITS FOR FAIR USE

Type of Material:	Fiction Non-fiction Textbooks	Stories Anthologies Encyclopedias Essays	Poetry	Periodicals	Cartoons* Charts Pictures Diagrams	Videos	Showing of Videos
Single copies	1 chapter	1 story or essay	1 poem	1 article	1 per book or issue	Up to 10% or 3 minutes whichever is less	Must be used for face-to-face instruction Must be directly related to curriculum
Multiple copies	the lesser of 1,000 word excerpt or 10% of work	2,500 word excerpt or story	250 word excerpt or story	2,500 word article or 10% of longer article	1 per book or issue		The showing of movies for entertainment or reward is prohibited without a separate license.
Cumulative use per class per year	2	1 complete work or 2 excerpts from same author; 3 from same collective work	1 complete work or 2 excerpts from same author; 3 from same collective work	3 from each volume	2 from individual work; 3 from same collective work		

*It is not permissible to copy copyrighted, syndicated cartoon characters.

There may be no more than nine instances of any of the above uses for one course during one year



Guide to Copyright Law and Fair Use



Frederick County Public Schools

Working Together to Educate Each Child and Promote Success

Department of Media Services
7630 Hayward Road
Frederick, Maryland 21702
301-644-5129
www.fcps.org

2004