

COPYRIGHT POLICY

I. PURPOSE and RECOGNITION:

- A. The purpose of this policy is to provide Cobleskill-Richmondville Central School District employees and students with guidelines for the permissible copying of copyrighted materials.
- B. The Cobleskill-Richmondville Central District recognizes the constitutional right of author ownership of original works. This recognition covers works of literature, music, musicals, dramatics, pantomimes, choreography, photographic, graphic arts, sculptures, sound records, motion pictures, and other audiovisual materials. In declaring this recognition, the Cobleskill-Richmondville Central School District will not knowingly violate the intent of the current United States Copyright Law. The District will make an effort to stay abreast of the changes in the law, which may have an impact on the District.

II. GENERAL INFORMATION:

A. COPYRIGHT:

A form of protection provided by the United States Constitution and various laws of the United States to authors of original works, be they published or unpublished. The works include, but may not be limited to:

- 1. Literature
- 2. Music and musicals
- 3. Dramatic works
- 4. Pantomimes
- 5. Choreography
- 6. Art and Sculptured work
- 7. Motion pictures and other audiovisual works
- 8. Sound recordings

The protection generally gives the owner of the copyright the exclusive right to reproduce and/or authorize others to reproduce their works.

B. COPYRIGHT NOTICE:

A work is generally protected under the copyright law immediately after it has been fixed in a tangible form. When the work is published it will include a copyright notice usually consisting of the following three elements:

- 1. The symbol © or the word “Copyright” or the abbreviation “Copr.”; or in the case of a sound recording the symbol ®;¹
- 2. The year of first publication of the work; and
- 3. The name of the copyright owner.

¹ The symbol © is the form of copyright notice of all countries who are signatories to the Universal Copyright Convention.

Copyright notices for books are generally found on the back of the title page.

Notices on periodicals are generally in one of several places: on the title page, the first page of text, or in the masthead. Care should be taken to discover the location of the copyright notice.

C. COPYRIGHT DURATION:

Copyright protection generally is for a period of the life of the author plus fifty (50) years. In the case of multiple authors, the fifty year “clock” does not begin until the death of the last surviving author. There are, however, some exceptions:

1. Works written anonymously and works written under a pseudonym are protected for seventy five (75) years after the date of first publication or one hundred (100) years after date of creation, whichever comes first.
2. In general all copyrights granted prior to 1910 have expired.

D. FAIR USE:²

1. An exception to the copyright laws giving others the ability to reproduce copyrighted materials provided the reproductions are made for such purposes as:
 - a. Criticism
 - b. Comment
 - c. Scholarship
 - d. Research, and
 - e. Teaching (under certain circumstances).
2. When determining whether or not duplication, derivation, display, distribution, or performance of works constitute infringement of the law, four factors must be considered:
 - a. the purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes;
 - b. the nature of the copyrighted work;
 - c. the amount of substantiality of the portion used in relation to the copyrighted work as a whole; and
 - d. the effect of the use upon the potential market for or value of the copyrighted work.

E. NON-PROTECTED WORKS:

1. Anyone may reproduce, without restriction, writings published prior to January 1, 1978 which do not have a copyright notice.
 2. Anyone may reproduce, without restriction, materials copyrighted prior to 1910.
 3. Anyone may reproduce, without permission, a publication of the United States Government. This, however, does not include documents published by others with the support of government grants and contracts.
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III. PERSONAL COPYING:

- A. Personal Research Use: Faculty members may make a single copy of any of the following for scholarly research or use in teaching or preparing 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, diagram, graph, drawing, cartoon or picture from a book, periodical, or newspaper.
- B. Quotation in Scholarly Writing:

The right of one author to quote from another is acceptable and recognized by copyright law provided the quotation is a small portion of the original work and that proper credit is given to the original author(s). In general the term "small portion" is meant, for example, two or three paragraphs of a book or periodical, a stanza of a poem, a single chart or graph.

IV. COPYING BOOKS and PERIODICALS:

Photocopied materials may be distributed by the teacher to student in a class, without obtaining prior permission from the copyright owner, under the following conditions:

- A. the distribution of the same photocopied material does not occur every semester;
- B. only one copy is distributed to each student and that copy becomes the student's property;
- C. the material includes a copyright notice on the first page of the photocopied material;
- D. no charge is made for the copy beyond the actual cost of reproduction.
- E. In addition, the amount of material distributed should not exceed certain brevity standards:
1. for prose – a work maybe copied in its entirety if it is less than 2500 words in length. If the work is longer, the excerpts copied should not exceed 1000 words or 10% of the work, whichever is less;
 2. for poetry – 250 words in the suggested limit;
 3. for illustrations – one is the rule of thumb.
- F. Considerations of spontaneity and cumulative effect are also considered as follows:
1. the copying is at the instance and inspiration of the individual faculty member;
 2. the decision to use the material for maximum teaching effectiveness does not allow sufficient time to request permission prior to its use;
 3. the copying of the material is for only one course;
 4. the copying is not done repeatedly from the same materials;
 5. there are not more than nine separate instances of such multiple copying for one course during one class term.
- G. Prohibited Copying:

Copying cannot be done:

1. to replace or substitute for the purchase of anthologies, compilations, or collective works;
2. from consumable works (e.g., workbooks, exercises, or standardized tests.)
3. as a substitute for the purchase of books, publisher' reprints, or periodicals.

The effect of copying on the potential market is of the greatest concern to copyright owners so any copying that can be construed as reducing the volume of future sales of a work is a potential infringement of the law.

V. COPYING MUSIC:

Copying music is permitted under the following conditions:

1. Emergency copying to replace purchases copies which for any reason are not available for an imminent performance provided that purchased replacement copies shall be substituted in due course.
 2. For academic purposes other than performance;
 3. Multiple copies of excerpts of works may be made, provided that the excerpts do not comprise a part of the whole which would constitute a performable entity, such as a section, movement, or aria, but in no case more than 10% of the whole work. The number of copies shall be no more that one per student.
 4. A single copy of a work determined to be out-of-print or unavailable except in a larger work may be made for scholarly research or in preparation for teaching.
- B. Printed copies which have been purchased may be edited or simplified provided the fundamental character of the work is not distorted or the lyrics, if any, altered of lyrics added if none exist.
- C. A single copy of recordings of performances by students may be made for evaluation or rehearsal purposes and may be retained by the educational institution or individual instructor.

VI. DRAMATIC PERFORMANCES, PANTOMIMES, and CHOREOGRAPHY:

The rules for copying music contained in section V above apply to other dramatic performances, pantomimes and choreography.

VII. SOUND RECORDINGS:³

- A. A single sound recording of copyrighted music may be made from sound recordings owned by an educational institution or individual instructor for the purpose of constructing aural exercises or examinations.⁴
- B. The regular use of sound recordings may require licensing approval from ASCAP, BMI, and/or SESAC, the three major licensing societies.

³ Sound recordings include phonograph records, tape and disc.

⁴ Sound recordings are fully covered in Sections 107 and 108 of the Copyright Act.

VIII. FILMS AND TAPES:

In-classroom performance of a copyrighted film or video tape is permissible under the following conditions:

- A. the showing must be by instructors (including guest lectures) or by students; and
- B. the showing of the video tape is in connection with face-to-face teaching activities; and
- C. the entire audience is involved in the teaching activity; and
- D. the entire audience is in the same room or same general area;
- E. the teaching activities are conducted by a non-profit education institution; and
- F. the showing takes place in a classroom or similar place devoted to instruction, such as a school library, gym, auditorium or workshop;
- G. the videotape is lawfully made; the person responsible had no reason to believe that the videotape was unlawfully made.

IX. OFF-AIR TAPING:

Separate guidelines apply to the video taping of telecast programs for educational purposes.

- A. A broadcast program may be recorded and retained for school use for a period not to exceed forty-five consecutive calendar days after the date of recording. After this time has elapsed, all recordings must be erased or destroyed immediately.
- B. Recordings may be used once by individual teachers and repeated once only if instructional reinforcement is necessary, in classrooms and similar places devoted to instruction (including residences for students receiving home instruction) during the first ten consecutive school days in the forty-five day retention period. "School days" are school session days, discounting weekends, holidays, vacations, examination periods, and other scheduled interruptions occurring within the forty-five calendar day retention period.
 - 1. After the first ten consecutive school days recordings may be used up to the end of the forty-five calendar day retention period only for evaluative purposes and may not be used in the school for student exhibition or any other non-evaluative purpose without authorization.
- C. Recordings may be made only at the request of individual teachers and may not be systematically recorded in anticipation of requests.
- D. No broadcast program may be recorded more than once at the request of the same teacher, regardless of the number of times the program may be aired.

X. CLASSROOM PERFORMANCES:

Teachers and students may perform or display a work in the classroom for instructional purposes for students, family and social acquaintances. However, if the audience consists primarily of non-student members of the community the performance or display may not be covered by classroom instructional exceptions.

XI. PUBLIC PERFORMANCES:

Musical or dramatic performances (including even a single "number" from an opera or musical) may be done outside of the classroom setting only with advance permission of the copyright holder and the payment of any required fees.

XII. COMPUTER SOFTWARE:

Copyright coverage of computer software remains ambiguous as these programs must be copied in their entirety to be usable. Therefore, the quantitative test for “fair use” copying does not apply.

- A. Computer software programs, unless they have been placed in the public domain, are copyrighted materials and therefore cannot be duplicated without the permission of the copyright holder.
- B. If you have purchased the software, one copy may be made as a back-up for your personal use in the event the original is destroyed or fails to work.
- C. The software licenses are specific regarding conditions governing its use. District personnel must read the software’s copyright page and adhere to the producer’s licensing restrictions.⁵

XIII. FOR FURTHER INFORMATION SEE OR CONTACT:

- A. Fair Use of Copyrighted Works. Report of the Committee on the Judiciary, Report 102-836, 102d Congress, 2nd Session, 1992
- B. U.S. Copyright Office. The Library of Congress. Circular 92: Copyright Law of the United States of America. (revised to September 1987, U. S. Government Printing Office, 1987).
- C. U.S. Copyright Office Hotline (2002) 287-9100

Most of the material for this Copyright Policy was information gleaned from the “Copyright Handbook” of the University of Albany, State University of New York and with the assistance of Dean Richard Halsey of the university. The Cobleskill-Richmondville Central School District acknowledges with appreciation the assistance of both Dean Halsey and The University of Albany for its valued assistance in the development of this policy

I should also be noted that some additional information was obtained from The World Almanac and Book of Facts 1994 published by Funk & Wagnall’s, 1993. The material from this source was used primarily in an effort to gain more insight into the Copyright Act and gain some historical perspective.

⁵ *If licensing restrictions are not present strict compliance with Section 117 of the Copyright Act is advised.*

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