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|------------------|-------------------------------------|-------------------------------|-------------------------------------|
| Policy Change | <input type="checkbox"/> | Subject Matter Area Review | <input checked="" type="checkbox"/> |
| Procedure Change | <input type="checkbox"/> | Constituency Group Review | <input checked="" type="checkbox"/> |
| New Policy | <input checked="" type="checkbox"/> | District Council | <input type="checkbox"/> |
| New Procedure | <input checked="" type="checkbox"/> | Board 1 st Reading | <input type="checkbox"/> |
| | | Board 2 nd Reading | <input type="checkbox"/> |

KEY:
BOLD= new language
~~strikethrough=~~ delete language

Comments:

Referred to:

Edited:
9/21/16

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Policy

3750 Use of Copyrighted Material

The Chancellor shall ensure the District complies with the law as it pertains to copyrighted material and enact procedures as appropriate and permitted by law.

- Cross References (see also):**
YCCD Policy 3710 – Securing of Copyright
YCCD Policy 3715 – Intellectual Property

References:

Adopted:
Last Reviewed:

Administrative Procedure

3750 Use of Copyrighted Material

Note: A procedure on use of copyrighted materials is suggested as good practice. Insert local practice. The example highlights key criteria for the procedure(s), but is not exhaustive.

A number of associations provide excellent resources related to use of copyrighted materials. Please see the following websites for information that expands on the general checklists in this procedure, which may be used to develop and refine local practice. The booklets, "Questions and Answers on Copyright for the Campus Community" and "Guidelines for Campus Copying" are available on the first three websites and are excellent resources.

1. The Association of American Publishers, www.publishers.org, click on "conferences and publications".
2. National Association of College Stores, www.nacs.org, click on "industry information"
3. Software and Information Industry Association, www.sija.net, click on "bookstore"
4. Copyright Clearance Center, www.copyright.com
5. American Libraries Association, www.ala.org, click on "Washington Office" or "issues and advocacy"

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

I. 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."

Note: The following is excerpted from the legislative history of the 1976 Copyright Act, which established congressionally endorsed guidelines related to classroom copying for educational use.

A. Single Copying for Teachers

A single copy may be made of any of the following by or for a teacher at his/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

B. 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

1
2 **II. Definitions**

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4 **A. Brevity**

5 **1. Poetry:**

- 6 a) A complete poem if less than 250 words and if printed on not more than two pages, or
7 b) From a longer poem, an excerpt of not more than 250 words,

8
9 **2. Prose:**

- 10 a) Either a complete article, story or essay of less than 2,500 words, or
11 b) An excerpt from any prose work or not more than 1,000 words or 10% of the work,
12 whichever is less, but in any event a minimum of 500 words. (Each of the numerical
13 limits stated in "1" and "2" above may be expanded to permit the completion of an
14 unfinished line of a poem or of an unfinished prose paragraph.)

15
16 **3. Illustration:**

17 One chart, graph, diagram, drawing, cartoon or picture per book or per periodical issue.

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19 **4. "Special" Works:**

20 Certain works in poetry, prose, or in "poetic prose" which often combine language with
21 illustrations and which are intended sometimes for children and at other times for a more
22 general audience fall short of 2,500 words in their entirety. Paragraph "1" above
23 notwithstanding such "special works" may not be reproduced in their entirety; however, an
24 excerpt comprising not more than two of the published pages of such special work and
25 containing not more than 10% of the words found in the text thereof may be reproduced.

26
27 **B. Spontaneity**

- 28 **1. The copying is at the instance and inspiration of the individual teacher; and**
29 **2. The inspiration and decision to use the work and the moment of its use for maximum**
30 **teaching effectiveness are so close in time that it would be unreasonable to expect a timely**
31 **reply to a request for permission.**

32
33 **C. Cumulative Effect**

- 34 **1. The copying of the material is for only one course in the school in which the copies are**
35 **made.**
36 **2. Not more than one short poem, article, story, essay or two excerpts may be copied from**
37 **the same author, nor more than three from the same collective work or periodical volume**
38 **during one class term.**
39 **3. There shall not be more than nine instances of such multiple copying for one course during**
40 **one class term. (The limitations stated in "2" and "3" above shall not apply to current news**
41 **periodicals and newspapers and current news sections of other periodicals.)**

42
43 **III. Prohibitions**

44 **A. Notwithstanding any of the above, the following shall be prohibited:**

- 45
46 **1. Copying shall not be used to create or to replace or substitute for anthologies, compilations,**
47 **or collective works. Such replacement or substitution may occur whether copies of various**
48 **works or excerpts therefrom are accumulated or are reproduced and used separately.**

1 2. There shall be no copying of or from works intended to be “consumable” in the course of
2 study or teaching. These include workbooks, exercises, standardized tests and test booklets
3 and answer sheets and like consumable material.

4 3. Copying shall not:

- 5 a) Substitute for the purchase of books, publisher’s reprints or periodicals;
- 6 b) Be directed by higher authority;
- 7 c) Be repeated with respect to the same item by the same teacher from term to term.

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9 B. No charge shall be made to the student beyond the actual cost of the photocopying.

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11 **IV. Compilations**

12 References: [Basic Books, Inc. v. Kinko’s Graphics Corp. \(S. D. N. Y. 1991\) 758 F. Supp. 1522](#); and
13 [Princeton University Press v. Michigan Document Services, Inc. \(6th Cir. 1996\) F. 3d 1381](#)

14
15 Permission from the copyright owner should be obtained when using excerpts of copyrighted work to
16 create anthologies or “course packs,” even if the excerpts fall under the definitions in the “fair use”
17 doctrine.

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19 **V. Online and Web Enhanced Courses**

20 References: The TEACH (Technology, Education and Copyright Harmonization) Act; U.S. Code 17,
21 Copyright Act, Sections 110(2) and 112

22
23 The TEACH Act provides instructors greater flexibility to use third party copyrighted works in online
24 courses. An individual assessment will be required to determine whether a given use is protected under
25 the Act. The following criteria are generally required:

- 26 1. The online instruction is mediated by an instructor.
- 27 2. The transmission of the material is limited to receipt by students enrolled in the course.
- 28 3. Technical safeguards are used to prevent retention of the transmission for longer than the
29 class session.
- 30 4. The performance is either of a non-dramatic work or a “reasonable and limited portion” of
31 any other work that is comparable to that displayed in a live classroom session.
- 32 5. The work is not a textbook, course pack, or other material typically purchased or acquired
33 by students for their independent use and retention, including commercial works that are
34 sold or licensed for the purposes of digital distance education.
- 35 6. The District does not know, or have reason to know, that the copy of the work was not
36 lawfully made or acquired.
- 37 7. The District notifies students that the works may be subject to copyright protection and
38 that they may not violate the legal rights of the copyright holder.

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41 **VI. Obtaining Permission to Use Copyrighted Material**

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43 **Note: Insert local procedures that describe the process faculty and others shall use to obtain permission
44 to use copyrighted material.**

45
46 References:

47 [Education Code Sections 32360 and 67302](#); [U.S. Code Title 17, Copyright Act of 1976](#)

- 1 **Procedure Last Revised:**
- 2 **Last Reviewed:**