

# Knox County Board of Education

Descriptor Term:

## Duplicating Copyrighted Materials

Descriptor Code:

**IFAF**

Issued Date:

**8/00**

Rescinds:

Issued:

### LITERARY MATERIALS

#### Single Copying for Teachers

A single copy may be made of any of the following by or for a teacher at his individual request for his 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; or
4. A chart, graph, diagram, drawing, cartoon or picture from a book, periodical or newspaper.

#### Multiple Copies for Classroom Use

Multiple copies (not to exceed one copy per student in a course) may be made by or for the teacher giving the course for classroom use or discussion, provided that:

1. The material copied is brief and the copying is spontaneous and noncumulative as measured by the definitions of brevity, spontaneity and cumulative effect below; and
2. Each copy includes a notice of copyright.

#### Definitions

**Brevity:** A reproduced work is brief if it consists of the following:

1. Poetry: Not more than (a) a complete poem if fewer than 250 words and if printed on not more than two pages or (b) an excerpt from a longer poem if the excerpt is not more than 250 words. These numerical limits may be expanded to permit completion of an unfinished line of poetry.
2. Prose: Not more than (a) a complete article, story or essay of fewer than 2,500 words or (b) an excerpt from any prose work of not more than 1,000 words or ten percent of the work, whichever is less, but in any event a minimum of 500 words. These numerical limits may be expanded to permit completion of an unfinished prose paragraph.
3. Illustration: Not more than one chart, graph, diagram, drawing, cartoon or picture per book or per periodical issue.

- 1 4. Special works: Certain works in poetry, prose or in poetic prose which often combine  
2 language with illustrations and which are intended sometimes for children and at other times  
3 for a more general audience, often fall short of 2,500 words in their entirety. Paragraph 2  
4 above notwithstanding, such special works may not be reproduced in their entirety; however,  
5 an excerpt of no more than two of the published pages of such special work containing no  
6 more than ten percent of the words found in the text thereof may be reproduced.  
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8 **Spontaneity:** Reproduction of a copyrighted work is spontaneous if:

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- 10 1. The copying is at the instance and inspiration of the individual teacher; and
  - 11
  - 12 2. The inspiration and decision to use the work and the moment of its use of maximum teaching  
13 effectiveness are so close in time that it would be unreasonable to expect a timely reply to  
14 a request for permission to use the work.  
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16 **Cumulative Effect:** Reproduction of a copyrighted work is noncumulative if:

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- 18 1. The copying of the material is for only one course in the school in which the copies are made  
19 (See Item 3 under prohibitions);  
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  - 21 2. No more than one short poem, article, story, essay, or two excerpts has been copied from the  
22 same author or more than three from the same collective work or periodical volume during  
23 one class term. This section does not apply to current new periodicals and newspapers and  
24 current news sections of other periodicals; and  
25
  - 26 3. There have been no more than nine (9) instances of such multiple copying for one course  
27 during one class term. This section does not apply to current new periodicals and newspapers  
28 and current news sections of other periodicals.  
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### 30 **Prohibitions**

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32 Notwithstanding any of the above, the following prohibitions shall be in effect:

- 33
- 34 1. Copying shall not be used to create or to replace or substitute for anthologies, compilations  
35 of collective works. Such replacement or substitution may occur whether copies of various  
36 works or excerpts therefrom are accumulated or reproduced and used separately;  
37
  - 38 2. There shall be no copying of or from works intended to be consumable in the course of study  
39 or of teaching. Consumable works include workbooks, exercises, standardized tests, test  
40 booklets, answer sheets and like materials;  
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  - 42 3. Copying shall not substitute for the purchase of books, publishers' reprints, or periodicals;  
43 or be directed by higher authority or be repeated with respect to the same item by the same  
44 teacher from term to term; and  
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  - 46 4. No charge shall be made to the student for the copied material.  
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**TELEVISED MATERIAL**

## Guidelines for Off-Air Recording of Television Broadcast Programs by Non-Profit Educational Institutions

1. A broadcast program may be recorded off-air simultaneously with broadcast transmission (including simultaneous cable retransmission) and retained for forty-five (45) days after the date of the recording; at the expiration of the retention period, the recording must be erased or destroyed.
2. An off-air recording may be used once by individual teachers in the course of relevant teaching activities and may be repeated once only when instructional reinforcement is necessary, in the classroom or similar place of instruction or the home of a student receiving home instruction, during the first ten (10) school days. An off-air recording may be used during the remainder of the retention period only to permit teachers to evaluate its effectiveness in the instructional period.
3. Off-air recordings may be made only at the request of and used by individual teachers and may not be regularly recorded in anticipation of requests. 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. All copies of off-air recordings must include the copyright notice on the broadcast program as recorded.
5. Off-air recordings need not be used in their entirety, but the recorded programs may not be altered from their original content. Off-air recordings may not be physically or electronically combined or merged to constitute teaching anthologies or compilations.
6. The copying or use of programs transmitted via subscription television cable services, such as HBO or Showtime, is illegal. These programs are licensed for PRIVATE/HOME use only and shall not be used in public schools.

**MUSIC MATERIALS**

## Permissible Uses of Music

1. Emergency copies of printed music may be made to replace purchased copies which for any reason are not available for an imminent performance, provided purchased replacement copies are substituted in due course.
2. For academic purposes other than performance:
  - a. Multiple copies of excerpts or works may be made, 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 ten percent of the work. The number of copies shall not exceed one (1) copy per student.

- 1 b. A single copy of an entire performable unit (section, movement, aria, etc.) that is (a) confirmed  
2 by the copyright proprietor to be out of print or (b) unavailable except in a larger work, may  
3 be made by or for a teacher solely for the purpose of his scholarly research or in preparation  
4 to teach a class.  
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- 6 3. Printed copies that have been purchased may be edited or simplified, provided that the fundamental  
7 character of the work is not distorted or the lyrics, if any, altered or added if none exist.  
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- 9 4. A single copy of a recording of performances by students may be made for evaluation or rehearsal  
10 purposes and may be retained by the educational institution or individual teacher.  
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- 12 5. A single copy of a sound recording (such as a tape, disc, or cassette) of copyrighted music may  
13 be made from sound recordings owned by the school system or by an individual teacher for the  
14 purpose of constructing aural exercises or examinations and may be retained by the system or the  
15 teacher. (This pertains only to the copyright of the music itself and not to any copyright that may  
16 exist in the sound recording.)  
17

### 18 Prohibitions

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20 The following practices are prohibited:

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- 22 1. Copying to create or replace or substitute for anthologies, compilations or collective works;
  - 23
  - 24 2. Copying of or from works intended to be consumable in the course of study or teaching such as  
25 workbooks, exercises, standardized tests, answer sheets, and like material;  
26
  - 27 3. Copying for the purpose of performance, except as noted in section on permissible uses;  
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  - 29 4. Copying for the purpose of substituting for the purchase of music, except as in items 1 and 2 of  
30 section on permissible uses.  
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  - 32 5. Copying without inclusion of the copyright notice that appears on the printed copy.  
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### 36 COMPUTER SOFTWARE

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38 Permissible Uses of Computer Software  
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- 40 1. Archival copies may be made to serve as a back-up in case of destruction or damage of  
41 the original through mechanical failure. Such copies shall be centrally stored and only one,  
42 either the original or the copy may be used at any one time. The archival copy must be  
43 destroyed when the program is no longer rightfully owned by the district unless the  
44 copyright owner authorizes its sale, lease or transfer as part of the sale, lease, or transfer  
45 of the original program.  
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- 47 2. Adaptations to the computer program will be permitted if they are required to correctly use  
48 the program.  
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3. Features may be added to the program so long as the altered program is not sold or given away without the original author's permission.

#### Prohibited Uses

1. In the absence of a license permitting the user to do so, the contents of one disk may not be loaded into multiple computers for use at the same time.
2. In the absence of a license permitting the user to do so, the contents of one disk may not be loaded into local network or disk sharing systems.
3. Illegal copies of copyrighted programs shall not be made or used on school equipment.

#### **INTERNET**

Educators and students are advised to exercise caution in using digital material downloaded from the Internet in producing their own educational multimedia programs, since there is a mix of works protected by copyright as well as works in the public domain on the Internet.

Access to works on the Internet does not automatically mean that the information can be reproduced and reused without permission or royalty payment; and, furthermore, some copyrighted works may have been posted to the Internet without authorization of the copyright holder.

#### **OTHER EMERGING TECHNOLOGIES**

Newer technologies can be easily changed or merged with one another. Their potential for manipulation, in all likelihood will result in the creation of new copyrightable forms of expression. Emerging technologies include, but are not limited to, digital video, satellite transmission, distance learning, CD-ROM, on-line databases (and their downloading), informational networks, and other educational interventions which can be manipulated into new copyrightable forms of expression.

When using the new technologies, teachers need to be very aware of the potential for copyright infringement. At the time of purchase it is essential to specify the intended use of the media and understand the provisions of any contract a distributor includes with the media purchased. Educational applications may be enhanced if the purchase procedures are followed.

In the absence of clearly granted rights, it is recommended that teachers contact the copyright holder in writing for permission in order to manipulate or use these technologies in alternative ways. Such a course of action will assure compliance with the spirit and intent of the copyright law as it applies to the role of electronic information and its transfer and use.

#### **FAIR USE GUIDELINES FOR EDUCATIONAL MULTIMEDIA**

1. Student Use: Students may use portions of lawfully acquired copyrighted resources in their academic multimedia programs, with proper attribution and citations. They may perform and display their program for educational purposes and may retain it in their personal portfolios as examples of their academic work for later appropriate use such as job and graduate school applications.

- 1 2. Instruction in Multimedia Development: Educators may use portions of lawfully acquired  
2 copyrighted materials in the course of face-to-face teaching activities to demonstrate to  
3 students how to create multimedia programs.  
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- 5 3. Face-To-Face Curriculum-Based Instruction: Educators may use portions of lawfully ac-  
6 quired copyrighted works in producing and using their own multimedia programs as teach-  
7 ing tools in support of an identified curriculum.  
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- 9 4. Peer Conferences: Educators may perform or display their own multimedia programs cre-  
10 ated for their own curriculum-based instructional activities, which use portions of copy-  
11 righted works lawfully acquired by the educational institution, at workshops of their peers  
12 or a conference where educators are presenting works they created for students.  
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- 14 5. Remote Instruction: Educators may use portions of lawfully acquired copyrighted resources  
15 in producing their own multimedia educational programs to be used for curriculum-based in-  
16 structional activities provided over an educational institution's electronic network, provided  
17 there are technological limitations on access to the network programs (such as a password  
18 or PIN) and on the total number of students enrolled.  
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#### 20 **Obtaining Permission for Copying**

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22 A teacher may request and obtain permission to copy material from a copyrighted work; and he or  
23 she may then use the work as expressly permitted and will not be bound by the limitations and  
24 prohibitions set forth in Descriptor Codes IF AE and IFAF.  
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26 Request for permission must be in writing and should be sent, together with an envelope addressed  
27 to the sender, to the permissions department of the publisher of the work. The request should in-  
28 clude the title, author or editor, and edition of materials for which permission is sought; the exact  
29 material to be used, with specification of amount, page numbers, chapters, including, if possible, a  
30 photocopy of the material; the number of copies to be made; the use to be made of the duplicated  
31 materials; the form of distribution; whether or not the copies will be sold; and the process by  
32 which the materials will be reproduced.  
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34 A copy of the written permission granted by the publisher or copyright owner shall be preserved  
35 by the Superintendent or designee.  
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