

Use of Copyrighted Materials

These Administrative guidelines must be followed in connection with the use of copyrighted material. A person following the guidelines must remember that:

The conditions determining the extent of permissible copying for educational purposes may change in the future.

Certain types of copying that these guidelines indicate are permitted today may not be permitted in the future; and conversely, other types of copying that these guidelines indicate are not presently permitted may be permitted by some future action of the U.S. Congress or the courts.

When an employee is reproducing someone else's work, s/he shall first ascertain whether the copying is permitted by law (see the sections that follow). If the copying does not fall within the "fair use" provisions of the R. S. Copyright Act, the employee shall obtain written permission to reproduce the material from the copyright holder(s) in the manner described below.

Requests for copyright permission shall include the following information (sample form letter requesting permission to copy appears at end of this document):

1. Title, author(s), editor(s), and publisher, producer(s), or distributor
2. Edition, copyright, and/or production year
3. Exact amount of material to be used (e.g., chapter, lines running time, scenes, etc.)
4. Reference in the letter to the initial contact and the name of the person contacted if the initial contact was made by phone.
5. Nature of the use (I.E., how many times, when, and with whom the material will be used)
6. Number of copies to be made
7. How the material will be reproduced

Materials which are clearly in the public domain may be copied in accordance with the U.S. Copyright Act. However, it should be noted that as a result of the entry of the United States into an international treaty called the Berne Convention, works published for the first time on or after March 1, 1989, do not have to carry the notice of copyright (i.e., © Copyright Holder's Name and Year of Publication) to be protected under the provisions of the U.S. Copyright Act. The safest and most ethical course of action is to secure permission to reproduce any borrowed material unless a statement on the material itself excuses the user from securing such permission or unless the U.S. Copyright Act grants exclusion. The following guidelines specify which uses are permitted and which are prohibited in the use of (1) printed material; (2) sheet and recorded music; (3) audio recordings, including records, disks, and tapes; (4) films, videotapes, filmstrips,

overhead transparencies, or slide programs; (5) off-the-air taping (radio and television); (6) rental, purchase, and use of videotape; (7) computer software; and (8) works by libraries.

Guidelines for the Use of Printed Materials

1. Permitted Uses

- a. Single Copies. An individual educator may make single copies of the following:
 - (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 a picture from a book, periodical, or newspaper.

- b. Multiple Copies. An individual educator may make multiple copies for classroom use (not to exceed one copy per student in a course) of the following:
 - (1) A complete poem if it has fewer than 250 words
 - (2) An excerpt from a longer poem, but not to exceed 250 words and not to exceed two printed pages in length (for example, it is not permissible to reproduce more than two printed pages of an illustrated poem without permission)
 - (3) A complete article, story, or essay of fewer than 2,500 words
 - (4) An excerpt from a larger printed work not to exceed 10 percent of the whole or 1,000 words, whichever is less
 - (5) One chart, graph, diagram, cartoon, or picture per book or per issue of a periodical

NOTE: All permitted copying must bear an appropriate reference (e.g., author, title, date, source, and so forth). Also, the copying must be at the “instance and inspiration” of the individual teacher; and the inspiration and decision to use the work and the moment of its use for maximum teaching effectiveness must be “so close in time that it would be unreasonable to expect a timely reply to a request for permission.”

2. Prohibited Uses

An individual educator cannot do the following:

- a. Copy more than one work or two excerpts from a single author during one class term.
- b. Copy more than three works from a collective work or periodical volume during one class term.
- c. Reproduce more than nine sets of multiple copies for distribution to students in one class term.
- d. Copy to create or replace or substitute for anthologies or collective works.
- e. Copy "consumable" works, such as workbooks, exercises, standardized tests, answer sheets, and so forth.
- f. Copy the same work from term to term.
- g. Copy the same material for more than one course being offered in the school.
- h. Copy to substitute for the purchase of books, publishers reprints, or periodicals.
- i. Copy when directed by a higher authority.
- j. Charge the student beyond the actual cost of photocopying.

Guidelines for the Use of Sheet and Recorded Music

3. Permitted Uses

An individual educator may duplicate:

- a. Emergency copies for an imminent performance, provided that they are replacing missing or damaged purchase copies and that copies of the sheet music or recorded music are purchased in a timely manner to replace the emergency copies.
- b. For academic purposes other than performances, single or multiple copies (one per student) of excerpts not constituting an entire performance unit or more than 10 percent of the total work.
- c. Edited or simplified purchased sheet music, provided that the fundamental character of the work is not distorted; that lyrics, if any, are not altered, and that lyrics are not added.
- d. A single copy of a recorded performance by students that is to be retained by the institution or individual teacher for evaluation or rehearsal purposes.
- e. A single copy of recordings of copyrighted music owned by the institution or a teacher for constructing aural exercises or examinations and retained for that purpose.

4. Prohibited Uses

An individual educator cannot duplicate:

- a. In order to replace or substitute for anthologies, compilations, or collective works.
- b. From works intended to be “consumable”, such as workbooks, exercises, standardized tests, and answer sheets.
- c. For purposes of performance, except as noted in an emergency (see 1.a. above).
- d. To substitute for the purchase of music.
- e. Without inclusion of copyright notice on the copy.

Guidelines for the Use of Audio Recordings – Records, Disks and Tapes

1. Permitted Uses

An individual educator may:

- a. For academic purposes other than performance, make a single copy of a portion of a sound recording for a student, provided that the portion does not comprise a part of the whole which would constitute a performable unit and in no case more than 10 percent of the whole work. This copy can be used only in the educational context in which it was made and may not be sold or performed for profit.
- b. Make a single copy of recordings of performances by students for evaluation or rehearsal purposes, which may be retained by the educational institution or individual teachers for such purposes.
- c. Make a single copy of the sound recording of copyrighted music or a portion thereof from sound recordings owned by an educational institution or an individual teacher for the purposes of constructing aural exercises or examinations and which may be retained by the educational institution or individual teacher for such purposes

2. Prohibited Uses

An individual educator cannot:

- a. Duplicate audio recordings unless reproduction rights were given at the time of purchase.
- b. Reproduce music works or convert to another format (e.g., record to tape) unless prior written permission is secured.

Note: Answers to questions pertaining to making multiple copies of sound recordings should be obtained in writing from the person or agency holding the copyright.

Guidelines for the Use of Films, Videotapes, Filmstrips, Overhead Transparencies, and slide Programs

1. Permitted Uses

An individual educator may:

- a. Allow a student to make a single copy of a small portion of a copyrighted film, videotape, or filmstrip for legitimate scholarly or research purposes if the material is owned by the school that the student is attending.
- b. Duplicate a single copy of a small portion of a film or filmstrip for scholarly or teaching purposes.
- c. Create a slide or overhead transparency series from multiple sources as long as creation does not exceed 10 percent of the photographs from one source (book, magazine, filmstrip, and so forth) unless the source forbids photographic reproduction.
- d. Create a single overhead transparency from a single page of a “consumable” workbook.
- e. Excerpt sections of a film for a local videotape (not to be shown over cable) if excerpting does not exceed 10 percent of the total nor the “essence” of the work.
- f. Reproduce selected slides from a series if reproduction does not exceed 10 percent of total and does not excerpt “the essence” of the original work.

2. Prohibited Uses

An individual educator cannot:

- a. Reproduce an audiovisual work in its entirety.
- b. Convert one media format to another (e.g., film to videotape) unless prior written permission is secured.
- c. Copy any portion of a film, videotape, or filmstrip sent to the school for preview or rent, or owned by another school or institution, without the express written permission of the copyright holder. This includes any material borrowed by the site or sent to the site for preview.

Note: The copyright of a film or videotape governs the performance (showing) as well as the copying of it. It is permissible to show a film to students using closed-circuit television if the system is confined to one building. Showing

a film or videotape via closed-circuit television outside the building is not permitted.

Guidelines for the Use of Television – Off-the-Air Taping

The primary purpose of the Federal “Guidelines for Off-Air Recording of Broadcast Programming for Educational Purposes” is to provide standards for both owners and users of copyrighted television programs. These guidelines were developed in 1979 by a committee appointed by Congressman Robert Kastenmeier, Chairman of the House of Representative’s Subcommittee on Courts, Civil Liberties, and Administration of Justice. They spell out how the fair use provision of the U.S. copyright law apply to the recording, retention, and use of television broadcast programs for educational purposes. Generally, the guidelines outline the procedures to follow for the short-term use of videotape recordings off-the-air in face-to-face instruction within a specified time period. The guidelines also enable educators to preview instructionally related materials for possible acquisition through purchase, lease, rental, or free-loan agreements by the county and district. The fair use rights and limitations for off-the-air taping of television programs are clarified below. (Sample forms to request information on the rights to a television broadcast and permission to make an off-the-air taping appear on the last pages of the document.)

1. Permitted Uses

Individual educators may:

- a. Record a broadcast program off-air simultaneously with broadcast transmission, including simultaneous cable retransmission, and retain the recording for a period not to exceed the first 45 consecutive calendar days after the date of the broadcast. At the conclusion of the retention period, all off-air recordings shall be erased or destroyed immediately. Broadcast programs are television programs transmitted for reception by the general public without charge. Individuals who wish to retain programs beyond the 45-day period need to obtain written approval of appropriate copyright holders.
- b. Use off-air recordings once for each class in the course of relevant teaching activities during the first ten consecutive school days in the 45-day retention period and repeat once only when instructional reinforcement is necessary. These recordings may be shown in classrooms and similar places devoted to instruction within a single building, cluster, or campus, as well as in the homes of students receiving formalized home instruction during the first ten (10) consecutive days in

- the 45 calendar day retention period.
- c. After the first ten consecutive school days, use off-air recordings to the end of the 45-calendar-day retention period for evaluation purposes only (i.e., to determine whether the broadcast program should be purchased for the curriculum). The program may not be used for student exhibition or any other non-evaluation purpose without written authorization.
 - d. Use copies of off-air recordings, as stipulated in these guidelines, only if the copies include the copyright notice on the broadcast program.
 - e. Request that off-air recording be made for fair use. This recording can be made only at the request of, and for use by, individual teachers; it cannot be recorded in anticipation of an educator's request. A limited number of additional 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. 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.
 - f. Request that a library record and retain for research or education purposes commercial television news programs from local, regional, or national networks; interviews concerning current events, and on-the-spot coverage of news events. However, documentary, magazine-format, and public affairs broadcasts are not included in the definition of daily newscasts of major events of the day.

Note: Regional providers of instructional programming in California purchase off-the-air duplication rights on behalf of the schools they serve. Regional instructional television (ITV) agencies should be consulted for clarification in the use of these programs.

2. Prohibited Uses

Individual educators cannot:

- a. Tape off-air programs in anticipation of an educator's requests.
- b. Request that broadcast program be recorded off-air more than once for the same educator, regardless of the number of times the program may be broadcast.
- c. Use the recording for instruction after ten consecutive school days.
- d. Hold the recording for weeks or indefinitely because (1) units needing the program concepts are not taught within the ten-day use period; (2) an

- e. Interruption or technical problems delayed its use; or (3) another teacher wishes to use it, or any other supposedly “legitimate” educational reason. Record programs off-air without written permission from the author/producer/distributor when a special notice is provided specifically prohibiting reproduction of any kind.
- f. Alter off-air programs from their original content. Broadcast recordings may not be physically or electronically combined or merged to constitute teaching anthologies or compilations.

Note: The copying or use of subscription programs transmitted via subscription television cable services, such as *HBO* or *Showtime*, is illegal. Such programs are licensed for private home use only and cannot be used in public school. “Pay” programs received via satellite dish are subject to these guidelines.

Guidelines for the Use of Radio – Off-the-Air Taping

1. Permitted Use

Individual educators may:

- a. Allow a student to make a single copy of a small portion of a copyrighted radio program for legitimate scholarly or research purposes. Such a copy may not be sold or performed for profit.
- b. Copy radio broadcasts consistent with fair use guidelines established for off-air videotaping for use in face-to-face instruction. Contractual right may entitle an individual to retain/use educational programs (i.e., those aired over National Public Radio, Public Broadcasting, and so forth) beyond the fair use period. Rights to extend the ten-day use period or the 45-day retention/evaluation period should be obtained in writing from the agency or individual holding distribution rights. Retention (not use) of recorded programs is permitted until additional use rights are established.

Guidelines for the Rental, Purchase, and Use of Videotapes

1. Permitted Uses

Unless precluded by county or district policy, individual educators may:

- a. Use purchased or rented videotapes (e.g., feature films) as part of a systematic course of instruction. Such use shall be for face-to-face instruction and must take place in a classroom or similar area devoted to

instruction.

- b. Use only lawfully made videotapes.

2. Prohibited Uses

Individual educators cannot:

- a. Use rented or purchased videotapes where a written contract prohibits such use in a classroom or face-to-face teaching situation.

Note: County and district agencies may wish to require approval by the principal, Curriculum director, or department chair prior to the showing of rented or purchased feature films or videotapes.

Guidelines for the Use of Computer Software

1. Permitted Uses

The 1976 U.S. Copyright Act and its 1980 amendments remain vague in some areas of software use and its application to education. When the law itself is vague, software licenses tend to be much more specific. It is, therefore, imperative that educators read the software's copyright statement and understand the licensing restrictions printed there. Generally, however, individual educators may:

- a. Make a copy of an original computer program for the purpose of maintaining the availability of the program should it be damaged during use. Either the copy or the original may be retained in archives. Only one, either the original or the copy, may be used at any one time.
- b. Make a copy of a program as an essential step in using the computer program as long as it is used in conjunction with the machine and in no other manner.
- c. Make a new copy from the archival program in the event the program in use is damaged or destroyed.
- d. Make a new copy for archival or "backup" purposes. This copy may be held only as a file copy and must be destroyed when the program is no longer rightfully owned by the college unless the copyright owner authorizes its sale, lease, or transfer as part of the sale, lease, or transfer of the original program.

2. Prohibited Uses

An individual teacher cannot:

- a. Load the contents of one disk into multiple computers for use at the same time in the absence of a license permitting the user to do so.
- b. Load the contents of one disk into local network or disk-sharing systems in the absence of a license permitting the user to do so.
- c. Make or use illegal copies of copyrighted programs on school equipment.
- d. Allow any student to surreptitiously or illegally duplicate computer software or access any data base or electronic bulletin board.
- e. Make copies of copyrighted programs for any purpose other than those specifically named under permitted use.

Note: No employee of the county or district shall surreptitiously or illegally access any data base or electronic bulletin board.

Guidelines for the Reproduction of Works for Libraries

The copyright law imposes extensive restrictions on the reproduction of works for school libraries. Systematic duplication of multiple copies is forbidden by law, with the exceptions noted below:

1. Permitted Uses

A librarian may:

- a. Arrange for interlibrary loans of photocopies of works requested by users, provided that copying is not done to substitute for subscriptions to or purchase of a work.
- b. Within any calendar year, make for a requesting entity five copies of any article or articles published in a given periodical within the last five years prior to the date of the request for the material.
- c. Make single copies of articles or phono-records or excerpts of longer works for a student making a request, provided the material becomes the property of the student for private study, scholarship, or research.
- d. Make a copy of an unpublished work for purposes of preservation, of a published work to replace a damaged copy, and of an out-of-print work that cannot be obtained at a fair price.
- e. Make off-the-air tape recordings of daily television news broadcasts for limited distribution to researchers and scholars for research purposes.
- f. Selectively make a copy for purposes of preservations or security, in

accordance with the provisions of fair use, of a musical work, pictorial, graphic, sculptural work, motion picture, or other audiovisual work if the current copy owned by the library is damaged, deteriorated, lost, or stolen; and it has been determined that an unused copy cannot be obtained at a fair price.

2. Prohibited Uses

A librarian **cannot**:

- a. Make copies for students if there is reason to suspect that the students have been instructed to obtain copies individually.
- b. Copy without including a notice of copyright on the reproduced material.

Note: To avoid liability for copyright infringement on the part of the library or an employee as a result of unsupervised duplicating, libraries must display notices to the effect that making a copy may be subject to the U.S. Copyright Act. The Register of Copyrights has prescribed the requirements for such warnings as follows:

NOTICE

Warning Concerning Copyright Restrictions

The copyright law of the United States (Title 17, *United States Code*) governs the making of photocopies or other reproductions of copyrighted material.

Under certain conditions specified in the law, libraries and archives are authorized to furnish a photocopy or other reproduction. One of these specified conditions is that the photocopy or other reproduction is not to be "used for any purpose other than private study, scholarship, or research." If a user makes a request for, or late uses, a photocopy or reproduction for purposes in excess of "fair use," that user may be liable for copyright infringement.

This institution reserves the right to refuse to accept a copying Order if, in its judgment, fulfillment of the order would involve Violation of copyright law.

Additional Considerations and Clarifications in the Use of Copyrighted Materials

1. Educational Performances and Displays

The Copyright Act clearly permits the showing of a motion picture, videotape, and so forth without an educational performance license if the following conditions are satisfied: (1) use takes place in areas designated for classroom instruction; (2) programs are shown as part of the instructional program, not for recreation or extracurricular use; and (3) materials are used in face-to-face instruction. Any other use of copyrighted materials for entertainment or extracurricular purposes would require an educational performance license unless those rights were granted at the time of purchase.

2. Emerging Technologies

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

When using the new technologies, educators need to be fully 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 may include with the media purchased. Educational applications may be enhanced if these purchase procedures are followed.

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

**SAMPLE REQUEST FOR PERMISSION TO REPRODUCE
COPYRIGHTED MATERIALS**

Author, Publisher, or Distributor

Permissions Department
[Address]

Date _____

Dear Permissions Department:

I respectfully request permission to copy and use: Title _____

_____ Author/Editor _____

Year published _____ Number of copies _____. Copies will/will not be
sold. Proposed selling price \$_____. Description of materials to be copied (photocopy
enclosed): _____

Intended use of materials: _____

_____ Type of reproduction _____

A self-addressed, stamped envelope is enclosed for your convenience in replying to this
request. Should you be unable to authorize this request, please forward this letter to the
appropriate person or agency.

Sincerely,

Signature

Name _____

Title _____

Glendale Community College
1500 North Verdugo Road
Glendale, CA 9120

Permission granted: _____ Date _____

Conditions (if any) _____

SAMPLE INQUIRY TO TV PRODUCER

Request for information of agency holding rights to a TV broadcast and permission to Retain program if it is not for sale, rental, or lease.

Network Address (write directly to ABC, CBS, or NBC – not an affiliate)

Permissions Department
[Address]

Date _____

Dear Permissions Department:

I respectfully request information on the availability and retention of the following program:

Title _____ Air Date _____

Can a copy of this program be retained for classroom instructional use? Yes No

Is this program available for sale? Yes No

If yes, specify agency distributing this program _____

Specify format _____ Cost (if known) _____

Enclosed is a self-addressed, stamped envelope for your convenience in replying to this request. Should you be unable to authorize this request or provide the above information, please forward this letter to the appropriate person or agency.

Sincerely,

Signature

Title of Requestor

=====
Permission granted _____ Date _____

Conditions (if any) _____

Adopted: 3/3/00

SAMPLE REQUEST FOR OFF-THE-AIR VIDEOTAPING

(NOTE: Agency guidelines for off-the-air videotaping are to be printed on the back of the form)

I, the undersigned, having requested _____ to videotape
Name of Agency

The following program(s) within the parameters of the policy set forth by the Governing Board on _____, am aware of said policy and agree to accept responsibility for the use and erasure of this material to prevent any infringement of copyright law in lieu of express written approval of the copyright proprietor.

Title of program to be copied _____

Date of program _____ Date program is needed _____

Time of program _____ Station or channel _____ Length of program _____

Special instructions _____

Requestor's name _____ Location _____
Please print

Signature _____ Department _____

**AUTHORIZATION TO DUPLICATE, COPY, AND/OR USE
COPYRIGHTED MATERIALS**

I, _____, hereby attest that I am the holder of the copyright of the following materials and am authorized to consent to copying of said materials. I hereby authorize Glendale Community College to copy said (book, article, etc.) for my use in teaching at Glendale Community College. I assume full responsibility for any infringement of copyright law with respect to this material. I wish to have _____ Number of copies made for my use.

Itemize Materials to be copied:

1. _____
2. _____
3. _____

Signature: _____ Date: _____