EGAD-R - COPYRIGHT COMPLIANCE ADMINISTRATIVE PROCEDURE

This administrative procedure summarizes the major provisions found in the federal copyright law and guidelines concerning reproduction of copyrighted works by educators. This summary is not intended to replace the law/guidelines, which should be referred to when questions regarding implementation arise.

Instructional staff teaching any form of distance learning or on-line course must carefully review and comply with Part III in addition to all other parts of this procedure.

I. GENERAL RULE AND COPYRIGHT OWNERSHIP

Presumption of copyright. Works, in any medium (written, recorded, digitally-stored, etc.), should generally be presumed to be protected by copyright law, regardless of whether the work displays a copyright notice, the symbol "©," or other express reservation of rights. Personal streaming subscriptions' Terms of Service include a "personal use" only restriction and are not allowed to be used in classrooms.

Rule against copyright violations. Except as otherwise permitted by this policy and applicable law, school employees shall not reproduce, perform or display copyrighted works without permission of the owner.

U.S. Government works. United States government works are not subject to copyright protection, and may freely be copied.
Public domain. Works that are in the public domain due to expiration of copyrights, as provided by law, may be freely reproduced, performed or displayed.

Student works. Students are the owners of exclusive rights in works that they create.

Works made for hire. Works created by school employees in the course and scope of their employment are "works made for hire," and the school department retains exclusive rights in such works, unless otherwise agreed in writing by the school board.

Distance learning. All rights in works created by school employees in the course of teaching distance learning courses are owned by the school department that employs the individual(s) who created the work, unless otherwise agreed in writing by the employing school department.

II. DEFINITIONS

1. "FAIR USE"

A copyright provides the owner with the exclusive rights of reproduction, adaptation, publication, performance and display of the covered work. The copyright law contains certain "fair use" provisions that permit limited reproduction of materials based on four criteria:

- The purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes;

- The nature of the copyrighted work;

- The amount and substantiality of the portion used in relation to the copyrighted work as a whole; and

- The effect of the use upon the potential market for or value of the copyrighted work.

II. "FACE-TO-FACE INSTRUCTION"

Performance or display of any copyrighted work by teachers or students without permission from the copyright holder is permissible under the following circumstances:

- The work must be performed or displayed in a face-to-face setting by a teacher or by students; and

- The performance or display must be in the course of teaching activities, in a classroom or a similar educational setting.

  Examples of performances or displays falling under this exception include reading a play in a classroom, singing a song in a classroom or showing a video or DVD (provided that it has been purchased or lawfully copied).

  The following sections summarize the permissible or "fair use" of different types of copyrighted works. Because the law and technological applications continue to evolve, school department employees are responsible for ensuring that the intended use of materials does not conflict with the copyright law/guidelines and for informing students of such issues as appropriate.

III. DISTANCE EDUCATION: TRANSMISSION OF PERFORMANCES AND DISPLAYS TO REMOTE SITES

The following may be transmitted by any device or process, including interactive television or Internet courses:

- Performance of nondramatic literary works (e.g. novels, short stories, or poems) or musical works, or

- Reasonable and limited portions of any other work, or

- Display of a work in an amount comparable to that which is typically displayed in the course of a live classroom only if:

  I. The performance or display is made by, at the direction of, or under the actual supervision of an instructor as an integral part of a class session offered as a regular part of instructional activities;

  II. The performance or display is directly related and of material assistance to the teaching content of the transmission;

  III. The transmission is made solely for, and, to the extent technologically feasible, the reception of such transmission is limited to students officially enrolled in the particular course and employees of the school department as part of their duties;

  IV. Technological measures are implemented that reasonably prevent retention of the work in accessible form by recipients of the transmission for longer than the class session and prevent unauthorized further dissemination of the work in accessible form by such recipients to others;

V. There is no interference with technological measures used by copyright owners to prevent such retention or unauthorized further dissemination of materials; and

VI. Students in such courses must be given notice that materials used in connection with the course may be subject to copyright protection.

IV. PRINT MATERIALS

I. Permissible Uses

1. A single copy of the following made for use in teaching or in preparation to teach a class:
    a. A chapter from a book;
    b. An article from a periodical or newspaper;
    c. A short story, short essay or short poem, whether or not from a collective work; and
    d. A chart, graph, diagram, drawing, cartoon or picture from a book, periodical or newspaper.
2. Multiple copies made for classroom use (not to exceed one copy per student in a course) from the following:
    a. A complete poem, if it has fewer than 250 words and does not exceed two printed pages in length, or an excerpt of not more than 250 words from a longer poem;
    b. A complete article, story or essay of less than 2,500 words;
    c. Prose excerpts not exceeding 10 percent of the whole or 1,000 words, whichever is less;
    d. One chart, graph, diagram, cartoon or picture per book or per issue of a periodical; and
    e. An excerpt from a children's book containing up to 10 percent of the words found in the text and not more than two printed pages of the published work.
3. One transparency for classroom instruction may be made from consumable materials such as workbooks, exercises, activity sheets, etc.
4. All permitted copying must include appropriate credits, including the author, title, date, copyright notice and any other pertinent information.

II. Prohibited Uses

1. More than one work or two excerpts from a single author copied during one class term;
2. More than three works from a collective work or periodical volume copied during one class term;
3. More than nine sets of multiple copies made for distribution to students in one class term;
4. Copies made to create, replace or substitute for purchasing anthologies or collective works;
5. Copies made of "consumable" works, such as workbooks, exercises, standardized tests and answer sheets (except as noted in A.3 above);

6. The same work copied from term to term;

7. The same material copied for more than one particular course, or copied every time a particular course is offered, unless permission is obtained from the copyright owner;

8. Copies made when there is sufficient time prior to the intended use to obtain permission from the copyright owner; and

9. No charges may be made to students beyond the actual cost of photocopying.

V. COMPUTER SOFTWARE

I. All software is protected by copyright law. Any unauthorized copying of software is illegal and may subject the copier to substantial civil or criminal penalties.

II. All software purchased for use in Cape Elizabeth Schools must be approved by the Superintendent or Director of Educational Technology. Only the Superintendent or the Director of Educational Technology may obtain and sign software licensing agreements and duplication rights agreements. All terms of such licensing/duplication agreements must be observed by all school employees and students.

III. Software purchased by the school department for classroom, lab, media center and office use remains the property of the school department and may be used only in school-sponsored programs and activities.

IV. The Director of Educational Technology is responsible for reviewing and supervising compliance with all software license agreements. The Director of Educational Technology shall retain all license agreements and modifications thereto.

V. Permissible Uses

1. One archival (back-up) copy of copyrighted software may be made by authorized employees (unless a licensing agreement prohibits copying for any purpose);

2. Software may be used on a networked computer system as authorized by the license or if written permission is obtained from the owner or a version intended for network is used;

3. Software may be loaded on multiple equipment to the extent authorized by the license or if written permission has been obtained from the owner; and

4. Preview software may be evaluated for a reasonable evaluation period before being purchased or returned.

VI. Prohibited Uses

1. Illegal copies of copyrighted software programs made or used on school equipment;

2. Copies made of preview software;

3. Use of software on a networked computer system not intended for network use without written permission from the owner;
   Copies made of locally produced adaptations or modifications of copyrighted software for any purpose.

4. Multiple loading of software not specifically licensed for multi-loading without written permission;

5. Multiple copies made of copyrighted software (beyond an authorized archival copy);

6. Multiple copies made of printed documentation accompanying copyrighted software;

7. Copies made of software for sale, loan, transmission, or gift to other users; and,

8. Copies made of locally produced adaptations or modifications of copyrighted software for any purpose.

VII. Unauthorized copying. Any employee or student who becomes aware of unauthorized copying of school software shall inform the Director of Educational Technology.

VI. INTERNET

The rights of the owner of copyrighted material on the Internet are the same as the rights of the owner of traditional materials. Unless there is a clear statement that art, photos, text and sounds are "public domain" , or appropriate Creative Commons license, and available for free use, it should be assumed that the material is copyrighted. All the criteria for "fair use" apply to works on the Internet just as they apply to other materials. The ease of copying materials from the Internet should not be used as an excuse for violating copyrights.

VII. OFF-AIR TELEVISION RECORDING

I. Permissible Uses

1. Off-air recordings may be made only at the request of and used by individual teachers;

2. Off-air recording of broadcast programs available to the general public without charge may be made and retained for a period not to exceed 45 calendar days after the date of recording. The following additional requirements must also be met:

   a. The recording may be used once by the individual teachers in the course of relevant teaching activities and repeated once during the first 10 consecutive school days in the 45-day retention period.

   b. Following the first 10 consecutive school days, the recording may only be used for teacher evaluation purposes (i.e., to determine whether the broadcast program should be included in the curriculum).

   c. Following the 45-day retention period, the recording must be erased or destroyed immediately unless written permission is obtained from the copyright owner to keep and use the program in teaching/learning activities.

3. A limited number of copies may be produced from each off-air recording to meet the legitimate educational needs of teachers. Such copies are subject to the same guidelines as the original copy.

4. An off-air recording need not be used in its entirety, but the recording may not be altered, edited, combined or merged. All copies must include the copyright notice of the broadcast program.

II. Prohibited Uses

1. Recording broadcast programs in anticipation of requests;

2. Recording broadcast programs when there is sufficient time prior to the scheduled program to obtain permission from the copyright owner;

3. Recording programs from pay/satellite television channels (HBO, Cinemax, Disney, etc.) and other streaming services;

4. Using or retaining recordings beyond the 45-day retention period without written permission;

5. Recording the same program more than once for the same teacher (regardless of how many times the program may be broadcast); and

6. Altering the program from the original content in any way (although the entire program need not be viewed)

VIII. USE OF PRE-RECORDED VIDEOS

Pre-recorded videos include commercially available videos marked "For Home Use Only" (such as feature films), including VHS tapes, DVD disks, filmstrips, etc. Streaming services are not covered under this exemption.

I. Permissible Uses

Pre-recorded videos may be used in "face-to-face instruction" provided that the viewing utilizes a lawfully-made copy rented or purchased by the school department.

II. Prohibited Uses

1. Videos may not be used for entertainment, filler, assemblies, fundraising, public viewing, or any other purpose without written permission of the copyright owner and permission of the building principal.

2. Videos may not be used when a written contract specifically prohibits use in classroom or direct instruction situations.

3. Videos may not be borrowed from individuals or other schools.

4. Videos may not be copied.

IX. MUSIC AND THEATER PERFORMANCES

Prior written permission must be obtained whenever copyrighted plays and musical numbers are to be performed or whenever copyrighted music is used as part of a performance.

X. EDUCATIONAL USES OF MUSIC

I. Permissible Uses

1. Emergency copies to replace purchased 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, multiple copies of excerpts of works may be made provided that:

   a. The excerpts do not constitute a performable unit (section, movement or aria) or more than 10 percent of the entire work;

   b. No more than one copy per student in the class is made; and

   c. The copyright notice appears on the copies.

3. For academic purposes other than performance, a single copy of an entire performable unit (section, movement or aria) may be made by the teacher for scholarly research or in preparation to teach a class provided that:
    a. The work is confirmed by the copyright owner to be out of print;
    b. The work is unavailable except in a larger work; and
    c. The copyright notice appears on the copy.
4. Printed copies that have been purchased may be edited or simplified provided that the fundamental character of the work is not distorted. Lyrics may not be altered or added, if none exist.
5. A single copy of recordings of performances by students may be made for evaluation or rehearsal purposes and may be retained by the school department or an individual teacher.
6. A single copy of a sound recording (album, tape, cassette or CD) or copyrighted music may be made from sound recordings owned by the school department or an individual teacher for the purpose of constructing aural exercises or examinations. The copy may be retained by the school department or an individual teacher.
    a. This pertains only to the copyright of the music itself and not to any copyright which may exist in the sound recording.

II. Prohibited Uses

1. Copy to create, replace or substitute for purchasing anthologies, collective works and compilations;
2. Copy "consumable" works, such as workbooks, exercises, standardized tests and answer sheets;
3. Copy for the purpose of performance (except as noted in A.1); and
4. Copy to substitute for the purchase of music (except as noted in A.1-2).

Legal Reference:

- 17 U.S.C. § 101 et seq.
- P.L. 107-273 (The TEACH Act of 2002)

Cross Reference:

- EGAD - Copyright Compliance

Approved:

- January 10, 2006

Revised:

- June 11, 2013
- October 14, 2025

Revision #4
Created 25 October 2021 17:36:43 by Troy Patterson
Updated 21 October 2025 20:06:22 by Andrea Fuller